

## CHAPTER 19

# ***The Committee of the Whole***

### **A. In General**

- § 1. Jurisdiction; House as in Committee of the Whole Distinguished
- § 2. Motions and Requests Generally
- § 3. Remarks in the Congressional Record
- § 4. Resolving Into Committee of the Whole

### **B. The Chairman**

- § 5. Speaker's Appointment of Chairman
- § 6. Chairman's Role; Jurisdiction
- § 7. —Limitations on the Chairman's Jurisdiction
- § 8. —Rulings Relating to Amendments
- § 9. —Appeals of Rulings

### **C. Motion to Recommend Striking Enacting Clause**

- § 10. Generally
- § 11. When in Order
- § 12. Procedures; Qualification to Offer or Oppose
- § 13. Debate
- § 14. Renewal of Motion

### **D. Consideration and Debate**

- § 15. Generally
- § 16. Time Limitations
- § 17. Calling Members to Order
- § 18. Reading Papers

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Commentary and editing by Thomas J. Nicola, J.D.

**E. Points of Order**

§ 19. Generally

§ 20. Timeliness

**F. Rising of the Committee of the Whole**

§ 21. Generally

§ 22. Motions to Rise

§ 23. —When in Order

§ 24. —Offering the Motion

§ 25. —Proceedings Subsequent to Action on Motion

§ 26. Resumption of Business After Committee Resumes Sitting

## INDEX TO PRECEDENTS

**Adjourn, motion to, § 2.4****Amend, precedence of motion to, over motion to rise with recommendation, §§ 2.3, 23.14****Amendments considered in the Committee**

adoption of amendment in nature of substitute, effect of, on motion to strike enacting clause, §§ 11.6, 11.7

ambiguity of amendment ruled on by Chairman, § 8.5

authority of Chairman to allocate debate time on amendments, § 8.11

consistency of amendments ruled on by Chairman, §§ 8.6–8.8

constitutionality of proposed amendment ruled on by Chairman, § 8.10

interpretation of, § 8.4

propriety of considering amendment identical to previously passed bill, § 8.9

**Appeals from rulings of the Chairman**

debate on appeal, § 9.6

**Appeals from rulings of the Chairman—Cont.**

issue on appeal, § 9.3

power to overrule decision on appeal, § 9.5

propriety of appeal, §§ 9.1, 9.2

rulings as to support for teller vote, § 9.4

table, appeal as subject to motion to, § 9.8

teller vote, effect of refusal of, ruling on, § 9.4

timeliness of points of order, as to, § 20.9

vacating chair to put appeal, § 9.7

**Automatic call of House on motion to resolve into Committee, § 4.9****Bills, motion to dispense with first reading of, § 2.11****Calendar Wednesday, proceedings after rising of Committee on, § 25.5****Calling Members to order for objectionable words in debate**

automatic resolution into Committee after Speaker's ruling, § 17.5

**Calling Members to order for objectionable words in debate—Cont.**

expungement of words, § 17.3  
 rise of Committee to report objectionable words, § 17.2  
 scope of ruling by Speaker, § 17.4  
 seating of Member, § 17.1  
 withdrawal of demand for, § 17.6  
 withdrawal of objectionable words after Speaker's ruling, § 17.7

**Chairman, appeals of rulings by**

debate on appeal, § 9.6  
 issue to be voted on, § 9.3  
 power to overrule decision on appeal, § 9.5  
 propriety of appeal, §§ 9.1, 9.2  
 table, appeal as subject to motion to, § 9.8  
 teller vote, effect of refusal of, ruling on, § 9.4  
 vacating chair to put appeal, § 9.7

**Chairman, limits on jurisdiction of**

committee reports, sufficiency or legal effect of, §§ 7.16, 7.17  
 constitutional questions, §§ 7.1–7.3  
 executive session, sitting in, § 7.18  
 existing law, consistency of proposal with, § 7.5  
 House action, anticipating, §§ 7.9–7.11  
 hypothetical questions, §§ 7.6–7.8  
 merits of proposed legislation, § 7.4  
 Senate procedure, interpretation of, § 7.19  
 time limitation, rescinding, § 7.12  
 unfinished business, time to resume, §§ 7.14, 7.15  
 vote required in House, ruling as to, as prerogative of Speaker, § 7.13

**Chairman of the Committee of the Whole**

generally, § 5.1  
 appeal of Chair's ruling, debate on, § 15.13

**Chairman of the Committee of the Whole—Cont.**

appreciation expressed to Chairman, § 6.5  
 Chairman pro tempore, § 5.2  
 constitutional questions, ruling on, §§ 7.1–7.3  
 debate, interruption by Chair of, § 6.4  
 debate on appeal of Chair's ruling, § 15.13  
 enacting clauses, time to offer motions relating to, §§ 11.1–11.3  
 existing law, consistency of proposal with, § 7.5  
 House action, anticipating, §§ 7.9–7.11  
 interpretations of Senate procedure by, § 7.19  
 "Madam Chairman," use of the term, § 5.3  
 point of order, ruling on points not in issue, § 6.1  
 recognition by, to oppose motion, §§ 12.12–12.14  
 rescinding time limitation, § 7.12  
 rulings to follow precedents, § 6.2  
 sitting in executive session, § 7.18

**Chairman pro tempore of the Committee, § 5.2****Chairman, rulings on**

ambiguity of amendment, § 8.5  
 application or effect of proposed amendment, §§ 8.1–8.3  
 consistency of amendments, §§ 8.6–8.8  
 constitutionality of proposed amendment, § 8.10  
 debate time on amendments, authority to allocate, § 8.11  
 earlier rulings, clarification of, § 6.3  
 hypothetical questions, §§ 7.6–7.8  
 interpretation of amendment by, § 8.4  
 legal effect of committee reports, § 7.16  
 merits of proposed legislation, § 7.4  
 points of order not in issue, § 6.1

**Chairman, rulings on—Cont.**

- precedence, rulings to follow, § 6.2
- propriety of considering amendment identical to adopted bill, § 8.9
- sufficiency of committee reports, § 7.17

**Close debate, timeliness of motion in Committee to, § 15.12****Committee reports**

- Chair's rulings on legal effect of, § 7.16
- Chair's rulings on sufficiency of, § 7.17

**Congressional Record**

- expungement of objectionable words in, § 3.2
- extension and revision of remarks in, § 3.1

**Constitutional question, Chair's rulings on, §§ 7.1–7.3****Constitutionality of proposed amendment, rulings by Chairman on, § 8.10****Debate and consideration in**

- appeal of Chair's ruling, debate on, § 15.13
- calling Members to order, generally, § 17
- Chairman's authority to allocate debate time on amendment, § 8.11
- Chair's ruling, debate on appeal of, § 15.13
- close debate, timeliness of motion to, § 15.12
- enacting clauses, duration of debate on motion to strike, §§ 11.12, 13.1–13.3
- enacting clause, yielding time during debate on motion to strike, § 10.13
- exhibits, use in debate of, § 15.16
- floor manager, yielding in debate by, § 15.4
- hour rule, extension of time under, § 15.7
- Member recognized for pro forma amendment, yielding by, § 15.6
- Member recognized to debate, yielding by, § 15.5

**Debate and consideration in—Cont.**

- motion to limit debate, effect of pendency of, §§ 11.10, 11.11
- motion to rise offered during time for debate, § 23.11
- offering motion to secure debate time, §§ 12.8–12.10
- point of order, debate on, § 15.3
- pro forma amendments during pendency of motion to rise and recommend striking enacting clause, § 13.10
- pro forma amendment, yielding by Member recognized for, § 15.6
- rising of Committee, debate continuing after interruption for, § 26.1
- scope on motions relating to enacting clauses, §§ 13.7–13.9
- Speaker, debate by, §§ 15.14, 15.15
- speaking more than once in general debate, § 15.8
- speaking more than once on amendment, §§ 15.9, 15.10
- time, computation of limitation on, §§ 16.1–16.4
- time, dividing debate, §§ 16.5, 16.6
- time, effect of expiration of, §§ 16.7–16.9
- time limitations on duration of debate, effect of, on motions relating to enacting clauses, §§ 13.4–13.6
- timeliness of motion to close debate, § 15.12
- unfinished business, consideration of, §§ 16.1, 15.2
- yielded time, offering motion to rise during, § 24.2
- yielding by Member recognized for pro forma amendment, § 15.6
- yielding by Member recognized to debate, § 15.5
- yielding in debate by floor manager, § 15.4

**Discharge, resolving into Committee after motion to, § 4.7**

**Division vote in Committee, offering motion to rise during, § 23.11**

**Enacting clause, effect of House rejection of Committee recommendation to strike, § 10.9**

**Enacting clause, motion to recommend striking**

adoption of amendment, in nature of substitute, effect of, §§ 11.6, 11.7

amendment of bill, renewal of motion after, §§ 14.4, 14.6

amendment, renewal of motion after rejection of, § 14.5

Chairman's vote on, § 10.8

closed rule, effect on qualification of, § 12.6

committee chairman as proponent, qualification of, § 12.7

debate, duration of, §§ 11.12, 13.1–13.3

debate, effect of pendency of motion to limit, §§ 11.10, 11.11

debate on, as affected by time limitations on debate on amendments, §§ 13.4–13.6

debate, pro forma amendments during pendency of motion to rise and recommend striking enacting clause, § 13.10

debate, scope of, §§ 13.7–13.9

debate time, offering motion to secure, §§ 12.8–12.10

debate, yielding time during, § 10.13

divisibility of motion, § 10.5

form of motion, §§ 10.1–10.3

House action on Committee recommendation to strike, § 10.6

motion to rise and recommend passage, after defeat of, § 11.9

motion to rise, strike the enacting clause, and recommit bill to committee, §§ 10.10–10.12

**Enacting clause, motion to recommend striking—Cont.**

previous question, after ordering of, § 11.8

privileged nature of motion, § 10.4

pro forma amendments offered during pendency of motion to rise and recommend striking, § 13.10

qualification, effect of closed rule on, § 12.6

qualification of committee chairman as proponent, § 12.7

qualification of Speaker as opponent, § 12.15

qualification, presumptions as to proponent's, §§ 12.4, 12.5

qualification to offer motion, generally, §§ 12.1–12.3

qualification to oppose motion, § 12.11

recognition by Chair of committee member as opponent, § 12.13

recognition by Chair of member of opposition party, § 12.14

recognition by Chair of opponent, § 12.12

recommit, precedence of motion to, § 11.14

rejection of Committee recommendation to strike, effect of, § 10.9

renewal of motion, generally, §§ 14.1–14.3

renewal of motion after amendment, § 14.4

renewal of motion after amendment of bill, §§ 14.4, 14.6

renewal of motion after rejection of amendment, § 14.5

renewal of motion, effect of withdrawal of prior motion on, § 14.7

renewal of motion on another legislative day, § 14.8

resolution of disapproval, resolving clauses in, § 10.7

**Enacting clause, motion to recommend striking—Cont.**

resolutions, general applicability of motion to, § 10.7

rising of Committee of the Whole, precedence of motion for, § 11.13

rule permitting only committee amendments, motion offered under, §§ 11.4, 11.5

Senate bill, striking enacting clause of, § 10.14

Speaker as opponent, § 12.15

strike, resumption of consideration in Committee of the Whole after House refusal to, § 26.2

withdrawal of motion, § 10.15

withdrawal of motion, effect of recognizing objection to, § 12.16

withdrawal of prior motion, effect on renewal of motion of, § 14.7

**Executive session, decision to sit in, by Chairman of the Committee, § 7.18****Floor manager, yielding in Committee in debate by, § 15.4****Hour rule, extension of time under, § 15.7****House as in Committee of the Whole, consideration of measures in, §§ 1.4, 1.5****Hypothetical questions, Chairman of the Committee ruling on, §§ 7.6–7.8****Mace, significance of, § 1.1****“Madam Chairman,” use of term, § 5.3****Motions and requests in Committee**

generally, § 2

adjourn, motion to, § 2.4

close debate, timeliness of motion to, § 15.12

division vote, motion to rise offered during, § 2.12

previous question, motion for, § 2.6

reading, motion to dispense with, § 2.11

**Motions and requests in Committee—Cont.**

reconsider, motion to, § 2.5

return to section of bill for amendment, motion to, § 2.10

rise and recommend, motion to, § 2.2

table, motion to, §§ 2.7, 2.8

unanimous-consent request, § 2.9

**Objectionable words, expungement from Congressional Record of, § 3.2****Papers or letters, reading of**

putting question to Committee of the Whole, §§ 18.1, 18.2

time to read, § 18.3

**Parliamentary situations, Speaker's anticipation of, § 1.2****Personal privilege, Members rising in Committee to questions of, § 1.3****Points of order in the Committee**

debate on, § 15.3

disposing of, before consideration of amendments, §§ 19.6, 19.7

failure to raise point of order, effect of, § 20.12

legislation on appropriation bill, §§ 20.11, 20.12

motion to rise offered pending decision on, §§ 23.7, 23.8

Ramseyer rule, based on violation of, §§ 19.3, 19.4

reserving point of order of legislation on appropriation bill, timeliness of, § 20.11

rising of Committee pending decision on, § 19.5

scope of debate on, § 19.2

scope of ruling on, § 19.1

**Points of order in the Committee, timeliness of**

appeal of Chair's ruling on, § 20.9

appropriation bill, against, § 20.10

appropriation bill, reserving point of order based on legislation in, § 20.11

**Points of order in the Committee, timeliness of—Cont.**

conference, as to measure committed to, § 20.17  
 debate, effect of commencement of, §§ 20.6, 20.7  
 debate, effect of failure to obtain recognition to, § 20.8  
 funds, as to diversion of appropriated, § 20.13  
 germaneness, as to, § 20.14  
 legislation on appropriation bill, reserving point of order against, § 20.11  
 printing of bill and hearings, lack of, § 20.4  
 quorum in standing committees, based on lack of, § 20.5  
 Ramseyer rule, based on, §§ 20.1–20.3  
 reading, as to effect of agreement to dispense with, § 20.15  
 report on striking language from Senate bill, as to, § 20.16  
 reserving point of order of legislation on appropriation bill, § 20.11

**Previous question, motion for, § 2.6****Previous question, motion to strike enacting clause offered after ordering of, § 11.8****Pro forma amendment, time limitation on debate on, § 15.11****Pro forma amendment, yielding in Committee by Member recognized for, § 15.6****Pro forma amendments during pendency of motion to rise and recommend striking enacting clause, § 13.10****Questions of personal privilege, rising to, § 1.3****Quorum in the Committee**

motion to rise, quorum requirement, § 22.7  
 motion to rise offered pending quorum count, § 23.5

**Quorum, resolving back into Committee after reporting of, § 25.4****Ramseyer rule, point of order in the Committee based on**

generally, §§ 19.3, 19.4  
 timeliness of, §§ 20.1–20.3

**Reading, motion to dispense with, § 2.11****Reconsider, motion to, § 2.5****Requirement that motions be written, § 2.1****Resolution of disapproval, motions relating to resolving clauses in, § 10.7****Resolution of disapproval, resolving into Committee to consider, §§ 4.5, 4.6****Resolution, resolving into Committee pursuant to, § 4.1****Resolving into Committee**

automatic call of House on motion to, § 4.9  
 consideration, motion to resolve as related to question of, § 4.10  
 discharge, after motion to, § 4.7  
 motion to resolve as related to question of consideration, § 4.10  
 motion to resolve, automatic call of House on, § 4.9  
 motions to resolve, recognition for, provided for by resolution, § 4.2  
 motions to resolve, Speaker's discretion in recognizing for, § 4.3  
 refusal to resolve, effect of, § 4.4  
 resolution, resolving pursuant to, § 4.1  
 resolutions of disapproval, resolving to consider, §§ 4.5, 4.6  
 withdrawing motion to resolve, §§ 4.11, 4.12  
 words taken down, resolving after ruling on, § 4.8

**Rise and recommend, motion to, § 2.2****Rise, precedence of motion to amend over motion to, § 2.3**

**Rising of Committee**

amendments, effect of motion to rise on, § 21.4  
 automatic rise pursuant to agreement, § 21.3  
 ceremonial occasions, §§ 21.6, 21.7  
 formal and informal rise, §§ 21.1, 21.2  
 objectionable words, rise of Committee to report, §§ 17.2, 21.5

**Rising of Committee, motion for**

debatability of, § 22.4  
 division on amendment after rejection of motion, § 25.3  
 enacting clause, precedence over motion to strike, § 23.13  
 floor manager, control by, § 22.5  
 form of motion, § 22.1  
 motion to rise and resume on day certain, § 22.2  
 precedence of motion to amend over, § 23.14  
 privileged nature of, §§ 23.1–23.4  
 quorum requirement as affecting, § 22.7  
 requirement that motion be written, § 22.3  
 time to rise, establishing, § 22.6  
 voting on the motion, § 22.8  
 withdrawal of motion, § 22.9

**Rising of Committee, offering of motion for**

before commencement of teller vote, § 23.9  
 during consideration of bill under special rule, § 23.12  
 during offering of amendments, § 24.1  
 during time for debate, § 23.10  
 during yielded time, § 24.2  
 quorum, pending count of, § 23.5  
 point of order, pending decision on, §§ 23.7, 23.8  
 privileged nature of, §§ 23.1–23.4

**Rising of Committee, offering of motion for—Cont.**

while another Member has floor, § 23.6

**Rising of Committee, proceedings after action on motion for**

Calendar Wednesday, on, § 25.5  
 quorum, point of order based on lack of, § 25.2  
 reporting to House, § 25.1  
 resolving back into Committee after reporting a quorum, § 25.4  
 vacating vote to rise, § 2a.6

**Rising of Committee, proceedings after resolving back into Committee**

continuation of debate interrupted by rise, § 26.1  
 resumption of consideration of bill after House refusal to strike enacting clause, § 26.2  
 teller vote, resumption of proceedings on, §§ 26.3–26.5

**Senate bill, Committee of the Whole recommendation to strike enacting clause of, § 10.14****Senate procedure, interpretation by Chairman of the Committee of the Whole of, § 7.19****Speaker**

anticipation of parliamentary situation by, § 1.2  
 motion to resolve, Speaker's discretion in recognizing for, § 4.3

**Special rule, offering motion to rise during consideration of bill in Committee under, § 23.12****Strike enacting clause, Committee of the Whole recommendation to**

debate on, § 13  
 divisibility of, § 10.5  
 form of motion, §§ 10.1–10.3  
 privileged nature of, § 10.4  
 procedure for, § 12

**Strike enacting clause, Committee of the Whole recommendation to—  
Cont.**

qualification to offer or oppose, § 12  
 renewal of motion, § 14  
 when in order, § 11

**Table, motion to**

appeal from ruling of Chairman as subject to, § 9.8  
 availability of motion in Committee, §§ 2.7, 2.8

**Teller vote in the Committee**

motion to rise offered before a count begins, § 23.10  
 refusal of tellers, effect of, § 9.4  
 resumption after rising of the Committee of the Whole, §§ 26.3–26.5

**Time, power of House to rescind limitations on, § 7.12****Unanimous-consent requests, availability in Committee of, § 2.9****Union Calendar legislation, consideration by House as in Committee of the Whole of, § 1.5****Vacating chair to put appeal from ruling by Chairman of the Committee of the Whole, § 9.7****Vacating vote for rising of Committee, § 25.6****Vote, division, motions offered during, § 2.12****Withdrawal of motion, effect of recognizing of objection to, § 12.16****Withdrawing motion to resolve into Committee, §§ 4.11. 4.12****Words taken down**

expungement from *Congressional Record* of objectionable words, § 3.2  
 resolving into Committee after ruling on, § 4.8

**Written, requirement that motions be, § 2.1**



# *The Committee of the Whole*

## A. IN GENERAL

### **§ 1. Jurisdiction; House as in Committee of the Whole Distinguished**

This chapter deals with the practice and procedure followed by the House when it resolves itself into the Committee of the Whole.<sup>(1)</sup> Discussed elsewhere are the requirements of a quorum in the Committee of the Whole,<sup>(2)</sup> procedures for acting on amendments in Committee of the Whole, including amendments to a concurrent resolution on the budget,<sup>(3)</sup> consideration and debate in

Committee of the Whole,<sup>(4)</sup> and voting in Committee of the Whole.<sup>(5)</sup>

The term Committee of the Whole technically applies to two Committees, the Committee of the Whole House, which formerly considered business on the Private Calendar, and the Committee of the Whole House on the state of the Union, which considers business on the Union Calendar [that is, public bills].<sup>(6)</sup> There was little difference in the work of the two Committees except in the character of bills considered.<sup>(7)</sup> Since 1935,<sup>(8)</sup> bills on the Private Calendar have been considered in the House *as in* Committee of the Whole, not, strictly speaking, in the Committee of the Whole.

When the House sits *as in* Committee of the Whole, it does not

1. For pre-1936 precedents: see 4 Hinds' Precedents §§4704–4791 and 8 Cannon's Precedents §§2318–2380 for precedents relating to the Committee of the Whole; 4 Hinds' Precedents §§4792–4868 and 8 Cannon's Precedents §§2381–2416, relating to subjects requiring consideration in the Committee of the Whole; 4 Hinds' Precedents §§4869–4922 and 8 Cannon's Precedents §§2417–2430 relating to reports from the Committee of the Whole.
2. Ch. 20, *infra*.
3. See Ch. 27, *infra* as to amendments, generally. For procedures relating to resolutions on the budget, see Ch. 13, *supra*.

4. Ch. 29, *infra*. See also §§15–18, *infra*.
5. Ch. 30, *infra*.
6. See 4 Hinds' Precedents §4705 for the distinction between the two Committees of the Whole.
7. 4 Hinds' Precedents §4705; *Deschler's Procedure* (93d Cong.), Ch. 19 §1.1.
8. 79 CONG. REC. 4480–89, 74th Cong. 1st Sess., Mar. 27, 1935. See Rule XXIV clause 6, *House Rules and Manual* §§893, 894 (1979).

actually resolve into the Committee; it sits “as in” Committee of the Whole to allow consideration of bills under the five-minute rule without general debate.<sup>(9)</sup> This practice is permitted for the consideration of public bills by unanimous consent or by special order from the Committee on Rules.<sup>(10)</sup>

Because the Committee of the Whole House for the consideration of private bills is no longer of practical application, the term “Committee of the Whole” is used in this chapter to refer to the Committee of the Whole House on the state of the Union unless otherwise indicated.

Rule XXIII clause 3<sup>(11)</sup> provides that, “All motions or propositions involving a tax or charge upon the people, all proceedings touching appropriations of money, or bills making appropriations of money

or property, or requiring such appropriation to be made, or authorizing payments out of appropriations already made, or releasing any liability to the United States for money or property, or referring any claim to the Court of Claims, shall be first considered in a Committee of the Whole. . . .”

This rule is applied not only to bills, but to amendments<sup>(12)</sup> and Senate amendments to House measures as well. As to the latter, Rule XX clause 1<sup>(13)</sup> provides that, “Any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the state of the Union, if, originating in the House, it would be subject to that point. . . .”

A view of long standing was that, to require consideration in a Committee of the Whole, a measure must have shown on its face that it fell within the requirements of Rule XXIII clause 3;<sup>(14)</sup> where the expenditure was a mere matter of speculation,<sup>(15)</sup> or where

9. See 4 Hinds' Precedents §§4923–4935 and 8 Cannon's Precedents §§2431–2435 for pre-1936 precedents relating to the House as in Committee of the Whole; and Jefferson's Manual, *House Rules and Manual* §§424–427 (1979) for actions which may or may not be taken in the House as in Committee of the Whole.

10. 4 Hinds' Precedents §4923 and Jefferson's Manual, *House Rules and Manual* §424 (1979).

11. *House Rules and Manual* §865 (1979).

12. 4 Hinds' Precedents §§4793, 4794.

13. *House Rules and Manual* §827 (1979). See Ch. 32 §5, *infra*, for discussion and precedents regarding House action on Senate amendments.

14. 4 Hinds' Precedents §§4811–4817.

15. 4 Hinds' Precedents §§4818–4821; 8 Cannon's Precedents §2388.

the bill might have involved a charge, but did not necessarily do so,<sup>(16)</sup> the rule did not apply. In ruling on a point of order as to whether a proposition involved a charge on the Treasury, the Speaker was confined to the provisions of the text and could not take into consideration personal knowledge not directly deducible therefrom.<sup>(17)</sup> In modern practice, a measure goes on the Union Calendar for consideration in the Committee of the Whole House on the state of the Union if an expenditure under the measure is probable.

The Committee of the Whole observes the rules of proceeding in the House as far as applicable.<sup>(18)</sup> However, the procedure in the Committee of the Whole differs from procedures in the House in certain respects. In the Committee, (1) a quorum consists of 100 Members instead of a majority of the House membership;<sup>(19)</sup> (2) tellers may be requested by 20 Members instead of by 44 (one-fifth of a quorum of the

House);<sup>(20)</sup> (3) a recorded vote may be requested by 25 (formerly 20) Members instead of by 44 (one-fifth of a quorum of the House);<sup>(21)</sup> (4) the constitutional yea and nay vote demanded by one fifth of the Members present,<sup>(22)</sup> or an “automatic” yea and nay vote as provided under Rule XV clause 4,<sup>(23)</sup> may not be taken; (5) amendments may not be withdrawn except by unanimous consent;<sup>(1)</sup> (6) debate may both be general and under the five-minute rule for amendments;<sup>(2)</sup> and (7) leave to extend remarks may be given only to the Member making the request, and not for the inclusion of extraneous material, general leaves being granted only by the House.<sup>(3)</sup>

16. 4 Hinds' Precedents §§4809, 4810.

17. 8 Cannon's Precedents §§2386, 2391.

18. Rule XXIII clause 9, *House Rules and Manual* §877 (1979); 4 Hinds' Precedents §4737.

19. Rule XXIII clause 2(a), *House Rules and Manual* §863 (1979). See also Jefferson's Manual, *House Rules and Manual* §329 Note (1979).

20. Rule I clause 5, *House Rules and Manual* §630 (1979); 5 Hinds' Precedents §§5985, 5986.

21. Rule XXIII clause 2(b) (adopted in the 96th Congress; see H. Res. 5, Jan. 15, 1979), *House Rules and Manual* (1979).

22. U.S. Cong. art. I, §5, clause 3, *House Rules and Manual* §76 Note (1979); 4 Hinds' Precedents §§4722, 4723.

23. *House Rules and Manual* §773 (1979).

1. Rule XXIII clause 5, *House Rules and Manual* §870 (1979); Rule XIX, *House Rules and Manual* §824 Note (1979); 5 Hinds' Precedents §§5221, 5753 (ftn.).

2. Rule XXIII clause 5, *House Rules and Manual* §870 (1979).

3. 5 Hinds' Precedents §§7009, 7010, 8 Cannon's Precedents §3488.

Certain powers may not be exercised by the Committee of the Whole. For example, the Committee may not modify orders of the House,<sup>(4)</sup> raise the question of consideration,<sup>(5)</sup> transact proceedings regarding words demanded to be taken down in debate,<sup>(6)</sup> appoint, authorize, or discharge committees,<sup>(7)</sup> extend, even by unanimous consent, time for debate fixed by the House<sup>(8)</sup> suspend the rule relating to admission to the floor,<sup>(9)</sup> recess without permission of the House,<sup>(10)</sup> in-

4. 4 Hinds' Precedents §§ 4712, 4713; 7 Cannon's Precedents § 786; and 8 Cannon's Precedents §§ 2321, 2323.
5. 7 Cannon's Precedents § 952 (on Calendar Wednesday); see also 5 Hinds' Precedents §§ 4973–4976.
6. 2 Hinds' Precedents §§ 1257–1259, 1348; 8 Cannon's Precedents §§ 2533, 2538, 2539. See Rule XIV clause 5, *House Rules and Manual* § 761 (1979), which states that objectionable words are taken down and read to the House. See also § 17, *infra*, for a discussion of Committee procedure when a Member objects to certain language.
7. 4 Hinds' Precedents §§ 4697, 4710.
8. Note to Rule XXIII clause 5, *House Rules and Manual* § 871 (1979); 5 Hinds' Precedents §§ 5212–5216; 8 Cannon's Precedents §§ 2321, 2550.
9. Note to Rule XXXII clause 1, *House Rules and Manual* § 919 (1979); 5 Hinds' Precedents § 7285.
10. 5 Hinds' Precedents §§ 6669–6671.

struct conferees,<sup>(11)</sup> or consider questions of privilege.<sup>(12)</sup>

The Committee of the Whole may rise informally to receive messages.<sup>(13)</sup>

### ***Significance of Mace***

**§ 1.1 The position of the mace signifies whether the House is in session or whether it has resolved itself into the Committee of the Whole. When the mace is in the higher position at the Speaker's right the House is in regular session. When the Members begin deliberations in the Committee of the Whole, the mace is placed on the lower pedestal next to the desk of the Sergeant at Arms.**

On July 13, 1966, the 125th anniversary year of the use of the present mace,<sup>(14)</sup> Mr. Frank Horton, of New York, discussed the position of the mace as it relates to whether the House meets in regular session or in the Committee of the Whole.

MR. HORTON: Mr. Speaker, today I should like to remind my distinguished

11. 8 Cannon's Precedents § 2320.
12. Note to Rule IX, *House Rules and Manual* § 666 (1979); 2 Hinds' Precedents § 1657.
13. *House Rules and Manual* § 330 (1979); 4 Hinds' Precedents § 4786.
14. 112 CONG. REC. 15403, 15404, 89th Cong. 2d Sess.

colleagues of a historic anniversary. The year 1966 marks 125 years of consecutive use of the present mace in the House of Representatives. . . .

The position of the mace signifies whether the House is in session or whether it has resolved itself into the Committee of the Whole House on the State of the Union. Visitors in the galleries today will notice that the mace is now in position at the Speaker's right, meaning that we are now in regular session. When we begin our deliberations in the Committee of the Whole, the mace will be placed on the lower pedestal next to the desk of the Sergeant at Arms. Any Member or visitor entering the House can tell at a glance if the House is in session or in committee.

### ***Anticipation of Parliamentary Situations by Speaker***

#### **§ 1.2 The Speaker does not anticipate parliamentary situations which might arise in Committee of the Whole.**

On June 29, 1973,<sup>(15)</sup> Speaker Carl Albert, of Oklahoma, refused to anticipate parliamentary situations which might arise in the Committee of the Whole.

MR. [RICHARD] BOILING [of Missouri]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 479 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

15. 119 CONG. REC. 22336, 22337, 93d Cong. 1st Sess.

H. RES. 479

*Resolved*, That upon the adoption of this resolution it shall be in order to move, clause 6, rule XXI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9055) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes, and all points of order against said bill for failure to comply with the provisions of clauses 2 and 5, rule XXI are hereby waived. It shall be in order to consider without the intervention of any point of order the following amendment in the nature of a substitute for section 307 of the bill H.R. 9055.

"Sec. 307. None of the funds herein appropriated under this Act or heretofore appropriated under any other Act may be expended to support directly or indirectly combat activities in, over, or from off the shores of Cambodia or in or over Laos by United States forces." . . .

MR. [JAMES J.] PICKLE [of Texas]: Mr. Speaker, is it my understanding that this is an open rule? Do I further understand that the gentleman from Georgia (Mr. Flynt) intends to offer the Eagleton amendment as a substitute which we had voted on in the last few days?

I understand from conversations which I have had at the Chair that it would be in order then to offer amendments to the substitute which will be offered by the gentleman from Georgia, and if any of those amendments were passed, it would be an amendment to that substitute.

If that substitute passes, there can be no more amendments and the vote will be up or down on that issue. Thus, if I am correct, then, Mr. Speaker, if

the substitute is passed, then there will be a vote on that up or down, and there can be no amendment beyond that point, is that correct?

THE SPEAKER: The Chair will answer that this is a matter for the Chairman of the Committee of the Whole House on the State of the Union.

The Chair is not able at this time to take over the responsibility of making parliamentary rulings from the Chairman of the Committee of the Whole House.

MR. [DELBERT L.] LATTA [of Ohio]: Mr. Speaker, the Speaker is absolutely correct. This is something that can be taken up in the Committee of the Whole House on the State of the Union.

### ***Consideration of Questions of Personal Privilege***

#### **§ 1.3 Members may not rise to a question of personal privilege in the Committee of the Whole.**

On Apr. 18, 1944,<sup>(16)</sup> during consideration of H.R. 4254, extension of "Lend Lease," Chairman Warren G. Magnuson, of Washington, refused to permit a Member to

16. 90 CONG. REC. 3558, 78th Cong. 2d Sess. See also 115 CONG. REC. 24372, 91st Cong. 1st Sess., Sept. 4, 1969 (during consideration of H.R. 12085, extending the Clean Air Act); 106 CONG. REC. 11289, 86th Cong. 1st Sess., June 18, 1959; and *Deschler's Procedure* (93d Cong.), Ch. 11 §13.6, for other instances of this principle.

raise a question of personal privilege because that issue may not be raised in the Committee of the Whole.

MR. [CLARK E.] HOFFMAN [of Michigan]: Mr. Chairman, can I raise a question of personal privilege in the Committee of the Whole, or do I have to wait until we go back into the House?

THE CHAIRMAN: That cannot be done in the Committee of the Whole.<sup>(17)</sup>

### ***Consideration of Measures in House as in Committee of the Whole***

#### **§ 1.4 Where a joint resolution requiring consideration in the Committee of the Whole is called up by unanimous consent, it is considered in the House as in the Committee of the Whole and is subject to debate and amendment under the five-minute rule.<sup>(18)</sup>**

17. Note: Under the modern practice, points of personal privilege may not be raised in the Committee of the Whole. The opposite was formerly true. See 3 Hinds' Precedents §§2540 et seq., which indicate that a matter of personal privilege could be claimed with reference to unparliamentary words. This former practice has been superseded by the procedure for taking down words in Committee of the Whole.

18. For more detailed discussion of consideration and procedure in the

On Sept. 26, 1968,<sup>(19)</sup> by unanimous consent House Joint Resolution 1461 was considered in the House as in Committee of the Whole and subject to debate and amendment under the five-minute rule.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I ask unanimous consent for the immediate consideration of the joint resolution (H.J. Res. 1461) making continuing appropriations for the fiscal year 1969, and for other purposes.

The Clerk read the title of the joint resolution.

THE SPEAKER:<sup>(20)</sup> Is there objection to the request of the gentleman from Texas? . . .

MR. [FRANK T.] BOW [of Ohio]: . . . I should like to make a parliamentary inquiry, Mr. Speaker.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. BOW: If this joint resolution is now called before the House, will it be in order, when it is before the House, to offer a substitute in the manner in which I have discussed it?

THE SPEAKER: The answer is that it would be in order. . . .

Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the joint resolution as follows:

House as in Committee of the Whole, see Ch. 29 §§ 4, 70.

19. 114 CONG. REC. 28374, 90th Cong. 2d Sess.

20. John W. McCormack (Mass.).

#### H.J. RES. 1461

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (c) of section 102 of the joint resolution of June 29, 1968 (Public Law 90-366), is hereby further amended by striking out "September 30, 1968" and inserting in lieu thereof "October 12, 1968".

MR. MAHON: Mr. Speaker, I ask unanimous consent that the joint resolution be considered in the House as in the Committee of the Whole.

THE SPEAKER: Is there objection to the request of the gentleman from Texas?

There was no objection.

MR. MAHON: Mr. Speaker, I move to strike out the last word. May I just add a few words. There are a number of agencies of the Government for which regular appropriations for 1969 have not been finally enacted by the Congress.

**§ 1.5 A motion that a Union Calendar bill called up be considered in the House as in the Committee of the Whole is not in order, although unanimous consent may be granted for that purpose; if such consent is not obtained, the House automatically resolves itself into the Committee of the Whole on Calendar Wednesday.**

On July 12, 1939,<sup>(1)</sup> during consideration of H.R. 985, to author-

1. 84 CONG. REC. 8945, 76th Cong. 1st Sess.

ize the Secretary of War to furnish markers for certain graves, Speaker William B. Bankhead, of Alabama, stated that a unanimous-consent request, but not a motion, to consider a Union Calendar bill in the House as in Committee of the Whole would be in order. After an objection was raised to the unanimous-consent request, the House automatically resolved itself into the Committee of the Whole.

MR. [ANDREW J.] MAY [of Kentucky] (when the Committee on Military Affairs was called): Mr. Speaker, by direction of the Committee on Military Affairs, I call up the bill (H.R. 985) to authorize the Secretary of War to furnish certain markers for certain graves, and ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The Clerk read the title of the bill.

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Speaker, reserving the right to object, will the gentleman explain the bill before we grant this request?

MR. MAY: This is a bill to authorize the Secretary of War to furnish certain markers for graves of persons who are entitled to have them. Under the statute they are bronze markers or stone markers.

MR. [SAM] HOBBS [of Alabama] Mr. Speaker, I object.

MR. MAY: To what is the gentleman objecting?

MR. HOBBS: I am objecting to the consideration of the bill.

MR. MAY: Then I move, Mr. Speaker, that the bill be considered in the House as in Committee of the Whole.

THE SPEAKER: The Chair is of the opinion that could not be permitted under the rules of the House. The gentleman may submit a unanimous consent request, but not a motion.

The gentleman from Kentucky asks unanimous consent to consider the bill in the House as in Committee of the Whole. Is there objection to the request of the gentleman from Kentucky?

MR. HOBBS: I object, Mr. Speaker.

THE SPEAKER: This bill is on the Union Calendar.

Accordingly, the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 985) to authorize the Secretary of War to furnish certain markers for certain graves, with Mr. Tarver in the chair.

## §2. Motions and Requests Generally

Particular motions which may be entertained in the Committee of the Whole include certain motions relating to the enacting clause,<sup>(2)</sup> motions to amend, and motions to rise;<sup>(3)</sup> the Committee of the Whole may not entertain motions involving functions properly performed by the House such as motions to (1) adjourn,<sup>(4)</sup> (2) lay on the table,<sup>(5)</sup> (3) lay on the table

2. See §§ 10–14, *infra*.

3. See §§ 22–25, *infra*.

4. § 2.4, *infra*.

5. § 2.7, *infra*. However, after general debate on a bill has been closed, a motion that the Committee of the

an appeal of the Chair's ruling,<sup>(6)</sup> (4) limit general debate,<sup>(7)</sup> (5) close general debate,<sup>(8)</sup> (6) order the previous question,<sup>(9)</sup> (7) recess without permission of the House,<sup>(10)</sup> (8) recommit,<sup>(11)</sup> (9) re-

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Whole rise and report with a recommendation that the bill be laid on the table may be offered. See 4 Hinds' Precedents § 4778.

6. § 2.8, *infra*.
7. 8 Cannon's Precedents § 2554. However, debate under the five-minute rule may be limited (5 Hinds' Precedents § 5224), and general debate may be limited by unanimous consent in the absence of an order by the House (5 Hinds' Precedents § 5232; 8 Cannon's Precedents §§ 2553, 2554). The terms "limit" and "close" with reference to debate are frequently used interchangeably.
8. 5 Hinds' Precedents § 5217.
9. § 2.6, *infra*.
10. Jefferson's Manual, *House Rules and Manual* § 586 (1979); 5 Hinds' Precedents §§ 6669–6671; and 8 Cannon's Precedents §§ 3357, 3362.
11. 4 Hinds' Precedents § 4721 and 8 Cannon's Precedents § 2326. However, the Committee of the Whole may move to rise and report with the recommendation that a bill be recommitted, unless that motion is precluded by the terms of a special rule (see § 23.12, *infra*); such motion is only in order at the completion of reading the bill for amendment (4 Hinds' Precedents §§ 4761, 4762), and takes precedence over a motion to rise and report with the recommendation that a bill pass (8 Cannon's Precedents § 2329).

consider,<sup>(12)</sup> (10) order a call of the House,<sup>(13)</sup> (11) effect a conference or instruct conferees,<sup>(14)</sup> or (12) expunge remarks from the Record.<sup>(15)</sup>

### ***Requirement That Motions Be Written***

**§ 2.1 All motions must be in writing, if the demand is made, even a motion that the Committee of the Whole do now rise.**

On June 13, 1947,<sup>(16)</sup> during consideration of H.R. 3342, the cultural relations program of the State Department, Chairman Thomas A. Jenkins, of Ohio, sustained a point of order against a motion to rise:

MR. [DANIEL A.] REED of New York: Mr. Chairman, I move that the Committee do now rise.

MR. [KARL E.] MUNDT [of South Dakota]: Mr. Chairman, I make the point of order that the motion has not been submitted in writing.

MR. REED of New York: Mr. Chairman, a preferential motion of this

12. § 2.5, *infra*.
13. 8 Cannon's Precedents § 2369.
14. 8 Cannon's Precedents § 2320. The subject of conferences is discussed more fully in Ch. 33, *infra*.
15. § 3.2, *infra*.
16. 93 CONG. REC. 6998, 80th Cong. 1st Sess. See 96 CONG. REC. 1693, 81st Cong. 2d Sess., Feb. 8, 1950, for another illustration of this principle.

character does not have to be submitted in writing.

THE CHAIRMAN: The point of order is sustained.

### ***Motion to Rise and Recommend***

#### **§ 2.2 After defeat of a motion that the Committee of the Whole rise and report a bill to the House with the recommendation that it pass, a motion that the Committee rise and report the bill with the recommendation that the enacting clause be stricken out is in order.**

On May 12, 1941,<sup>(17)</sup> during consideration of H.R. 3490, fixing the amount of annual payment by the United States toward defraying expenses of the District of Columbia government, Chairman William M. Whittington, of Mississippi, ruled that it would be in order to move that the Committee of the Whole rise and report a bill with the recommendation that the enacting clause be stricken out after defeat of a motion that the Committee rise and report a bill to the House with the recommendation that it pass:

MR. [JENNINGS] RANDOLPH [of West Virginia]: Mr. Speaker, I move that the House resolve itself into the Com-

mittee of the Whole House on the state of the Union for the consideration of the bill (H.R. 3490) to fix the amount of the annual payment by the United States toward defraying the expenses of the government of the District of Columbia; and pending that, I ask unanimous consent that debate be limited to 2 hours.

After completion of general debate and reading of the bill for amendment under the five-minute rule, the manager of the bill, Mr. Randolph, moved as follows:

Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with an amendment with the recommendation that the amendment be agreed to and that the bill as amended do pass. . . .

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. TARVER: If this motion to report the bill favorably does not carry, it would then be in order to offer a motion to report the bill with the recommendation that the enacting clause be stricken out.

THE CHAIRMAN: The bill would still be in the Committee, and such a motion would be in order.

### ***Precedence of Motion to Amend Over Motion to Rise and Report***

#### **§ 2.3 A motion to amend in the Committee of the Whole takes precedence over a mo-**

17. 87 CONG. REC. 3917, 3938, 3939, 77th Cong. 1st Sess.

**tion to rise and report a bill with recommendations.**

On July 27, 1937,<sup>(18)</sup> during consideration of H.R. 7730, to authorize the President to appoint certain administrative assistants, Chairman Wright Patman, of Texas, stated that a motion to amend in the Committee of the Whole takes precedence over a motion to rise and report a bill with recommendations:

Mr. [J.W.] Robinson of Utah and Mr. [Ross A.] Collins [of Mississippi] rose.

MR. ROBINSON of Utah: Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with the recommendation that the bill do pass.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the motion that it is not in order at this stage of the proceedings.

THE CHAIRMAN: The Chair may state that motions to amend take precedence over a motion that the Committee rise.

The gentleman from Mississippi offers an amendment, which the Clerk will report.

***Motion to Adjourn***

**§ 2.4 A motion to adjourn is not in order in the Committee of the Whole.**

On Feb. 7, 1964,<sup>(19)</sup> during consideration of H.R. 7152, the Civil

18. 81 CONG. REC. 7699, 75th Cong. 1st Sess.

19. 110 CONG. REC. 2505, 88th Cong. 2d Sess. See also 107 CONG. REC. 9619,

Rights Act of 1963, Chairman Eugene J. Keogh, of New York, held that the motion to adjourn would not lie while the House was in the Committee of the Whole:

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I wonder if it would be in order to move that the House do now adjourn, while the coalition works out the substitute amendment? Would it be in order to move that the House do now adjourn?

THE CHAIRMAN: A motion to adjourn, of course, does not lie while the House is in the Committee of the Whole House.

MR. WHITTEN: I merely wished to know if it were possible under the circumstances.

Mr. Chairman, I move that the Committee do now rise, while the coalition works out a settlement of the differences.

THE CHAIRMAN: The question is on the motion of the gentleman from Mississippi [Mr. Whitten].

The motion was rejected.

***Motion to Reconsider***

**§ 2.5 The motion to reconsider is not in order in the Committee of the Whole; however, proceedings may be vacated by unanimous consent**

87th Cong. 1st Sess., June 6, 1961; 96 CONG. REC. 2162, 2218, 81st Cong. 2d Sess., Feb. 22, 1950; and 95 CONG. REC. 5616, 81st Cong. 1st Sess., May 4, 1949, for other examples of this principle.

**after business has been transacted.**

On Mar. 12, 1945,<sup>(20)</sup> during consideration of H.R. 2023, to continue the Commodity Credit Corporation, Chairman R. Ewing Thomason, of Texas, ruled that a motion to reconsider is not in order in the Committee of the Whole. However, after the transaction of business, the Committee agreed to a unanimous consent request to vacate certain proceedings:

MR. [Jesse P.] WOLCOTT [of Michigan]: Mr. Chairman, I offer an amendment, which is at the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. Wolcott: On page 1, lines 5 and 6, after the word "thereof" in line 5, strike out the sign and figure "\$5,000,000,000" and insert in lieu thereof the sign and figure "\$4,000,000,000."

MR. [BRENT] SPENCE [of Kentucky]: . . . The Commodity Credit Corporation agrees to it. I think it should be adopted. I am sure there will be no objection to it.

THE CHAIRMAN: The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

Sec. 2. Subsection (c) of section 381 of the Agricultural Adjustment

Act of 1938 (52 Stat. 67) is amended to read as follows:

"(c) During the continuance of the present war and until the expiration of the 2-year period. . . ."

MR. SPENCE: Mr. Chairman, I misunderstood the amendment offered by the gentleman from Michigan. I had no right to agree to that amendment. The amendment which I thought the gentleman from Michigan [Mr. Wolcott] submitted, and the only one that he ever submitted to me, was an amendment to increase dairy payments to \$568,000,000, and to increase the noncrop program from \$60,000,000 to \$120,000,000. That was a clear misunderstanding on my part. . . .

Mr. Chairman, I ask the committee, under the circumstances, to reconsider its action.

MR. WOLCOTT: There will be no objection on my part.

THE CHAIRMAN: Without objection, the action by which the amendment was agreed to will be vacated.

MR. [ROBERT F.] RICH [of Pennsylvania]: Reserving the right to object, I want to ask the gentleman a question.

THE CHAIRMAN: The gentleman from Pennsylvania reserves the right to object. . . .

Is there objection?

MR. RICH: Mr. Chairman, I object—until we can get some information on the subject.

MR. [ROY O.] WOODRUFF of Michigan: Mr. Chairman, I demand the regular order.

THE CHAIRMAN: The regular order is that the gentleman from Pennsylvania has objected to the consent request of the gentleman from Kentucky.

MR. SPENCE: Mr. Chairman, I move to reconsider the action of the Com-

20. 91 CONG. REC. 2042, 2043, 79th Cong 1st Sess. See also 112 CONG. REC. 18416, 89th Cong. 2d Sess., Aug. 5, 1966, for another example of this procedure.

mittee by which the amendment was agreed to.

THE CHAIRMAN: Such a motion is not in order in the Committee of the Whole.

MR. WOLCOTT: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. WOLCOTT: Inasmuch as business has been transacted since the original request was submitted by the gentleman from Kentucky, would it be in order for me to propound a consent request that the proceedings by which the amendment was adopted be vacated?

THE CHAIRMAN: Such a request would be in order, and the Chair recognizes the gentleman for that purpose.

MR. WOLCOTT: Then, Mr. Chairman, I ask unanimous consent that the proceedings by which the amendment was adopted reducing the amount from \$5,000,000,000 to \$4,000,000,000 be vacated. . . .

THE CHAIRMAN: Is there objection to the request of the gentleman from Michigan?

There was no objection.

### ***Motion for Previous Question***

#### **§ 2.6 The motion for the previous question is not in order in the Committee of the Whole.**

On Nov. 17, 1967,<sup>(1)</sup> during consideration of H.R. 13893, foreign

1. 113 CONG. REC. 32964, 90th Cong. 1st Sess. See 112 CONG. REC. 18115, 89th Cong. 2d Sess., Aug. 3, 1966;

aid appropriations, fiscal 1968, Chairman Charles M. Price, of Illinois, held that the motion for the previous question is not in order in the Committee of the Whole:

MR. [PAUL C.] JONES of Missouri: Mr. Chairman, reserving the right to object, is it in order to move the previous question on this amendment now, inasmuch as we have had considerable debate on it, and I have been trying to receive recognition for approximately half an hour, but now I am willing to forgo my time.

THE CHAIRMAN: The Chair will state that the moving of the previous question is not in order in the Committee of the Whole.

### ***Motion to Table***

#### **§ 2.7 The motion to table is not in order in the Committee of the Whole.**

On Oct. 6, 1966,<sup>(2)</sup> during consideration of H.R. 13161, the elementary and secondary education bill, Chairman Daniel D. Rostenkowski, of Illinois, ruled that the motion to table is not in order in the Committee of the Whole:

MR. [ALBERT W.] WATSON [of South Carolina]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

- and 110 CONG. REC. 457, 88th Cong. 2d Sess., Jan. 16, 1964, for other examples.
2. 112 CONG. REC. 25583, 89th Cong. 2d Sess.

Amendment offered by Mr. Watson: On page 76, line 15, after "1967" change the period to a semicolon and insert: "*Provided, however,* That no funds shall be expended hereunder so long as the present United States Commissioner of Education occupies that office."

MR. [CARL D.] PERKINS [of Kentucky]: Mr. Chairman, a point of order. The amendment is not germane and is subject to a point of order. . . .

THE CHAIRMAN: . . . The Chair is of the opinion that the amendment is germane to the bill, and overrules the point of order.

The gentleman from South Carolina is recognized in support of his amendment.

MR. PERKINS: Mr. Chairman, I move that the amendment be tabled.

THE CHAIRMAN: That motion is not in order in the Committee of the Whole.

### **§ 2.8 The motion to lay on the table an appeal from a decision of the Chair is not in order in the Committee of the Whole.**

On Oct. 19, 1945,<sup>(3)</sup> after ruling that a proposed amendment was not germane to H.R. 4407, reducing appropriations, Chairman Fritz G. Lanham, of Texas, held that a motion to table a decision of the Chair is not in order in the Committee of the Whole.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, with all the

3. 91 CONG. REC. 9870, 79th Cong. 1st Sess.

deference in the world for the distinguished Chairman, whom we all love, I respectfully appeal from the ruling of the Chair.

MR. [EMMET] O'NEAL [of Kentucky]: Mr. Chairman, I move to lay the appeal on the table.

MR. RANKIN: Mr. Chairman, the appeal cannot be laid on the table. The Committee has a right to vote on it.

THE CHAIRMAN: The motion to lay on the table is not in order in the Committee. . . .

The question is: Shall the decision of the Chair stand as the judgment of the Committee of the Whole?

The question was taken; and the Chair announced that the "ayes" had it.

So the decision of the Chair stands as the judgment of the Committee of the Whole.<sup>(4)</sup>

### ***Unanimous-consent Requests***

### **§ 2.9 A unanimous-consent request that the Clerk of the House, in the engrossment of the bill, be instructed to correct section numbers is not in order in the Committee of the Whole; such permission must be obtained in the House.**

On Oct. 3, 1962,<sup>(5)</sup> during consideration of H.R. 13273, the riv-

4. See also 81 CONG. REC. 7700, 75th Cong. 1st Sess., July 27, 1937, for another illustration of this rule.

5. 108 CONG. REC. 21884, 87th Cong. 2d Sess.

ers and harbors authorization bill, Chairman Francis E. Walter, of Pennsylvania, declared that a unanimous-consent request to instruct the Clerk to correct section numbers in the engrossment of a bill would have to be done in the House rather than the Committee of the Whole:

MR. [JAMES C.] WRIGHT [Jr., of Texas]: Mr. Chairman, so as to avoid any possible confusion in the numbering of these sections, I ask unanimous consent that the Clerk of the House be instructed so to number these sections serially that they are all in proper sequence.

THE CHAIRMAN: The gentleman's request will have to be made in the House.

### ***Motion to Return to Section for Amendment***

#### **§ 2.10 In the Committee of the Whole a Member must obtain unanimous consent to return to a section of a bill to offer an amendment; a motion to do so is not in order.**

On Aug. 18, 1944,<sup>(6)</sup> during consideration of H.R. 5125, the surplus property bill, Chairman R. Ewing Thomason, of Texas, stated that a Member must obtain unanimous consent to return to a section of a bill after that section has

been passed, and indicated that such action cannot be taken by motion:

MR. [CARTER] MANASCO [of Alabama]: Mr. Chairman, I make a point of order against the amendment on the ground that we have passed the section to which the amendment applies.

MR. [BEN F.] JENSEN [of Iowa]: Then, Mr. Chairman, I ask unanimous consent that we return to section 7 for the purpose of offering an amendment.

THE CHAIRMAN: The gentleman from Iowa asks unanimous consent to return to section 7 for the purpose of offering an amendment. Is there objection?

MR. MANASCO: I object, because we returned to that once and we want to finish this bill this week if we can.

MR. JENSEN: Mr. Chairman, I would have offered this amendment earlier but I call attention to the fact that the reading of the bill was very rapid and I did not have a chance; I did not have the opportunity.

THE CHAIRMAN: The gentleman can return to a former section only with the unanimous consent of the Committee and the Committee has not given it.

MR. JENSEN: Then, Mr. Chairman, I plead with the chairman of the committee to let this amendment be considered. It is an important amendment.

. . .

Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. JENSEN: What course can I take now to get this amendment before the House? I am throwing myself on the mercy of the Chair?

6. 90 CONG. REC. 7122, 78th Cong. 2d Sess.

THE CHAIRMAN: The gentleman has asked unanimous consent to return to the section; the Committee has declined to grant it. The Chair does not know what further the gentleman can do.

### ***Motion to Dispense With Reading***

#### **§ 2.11 A motion to dispense with the full reading of a bill in the Committee of the Whole is not in order.**

On June 4, 1951,<sup>(7)</sup> the House resolved itself into the Committee of the Whole for the consideration of the District of Columbia Law Enforcement Act of 1951 (H.R. 4141). The Chairman<sup>(8)</sup> stated that without objection the first [full] reading of the bill would be dispensed with. Objection was heard from Mr. Herman P. Eberharter, of Pennsylvania, and the Chairman ordered the Clerk to read the bill.

During the reading of the bill a parliamentary inquiry was raised:

MR. [W. STERLING] COLE of New York (interrupting the reading of the bill): Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. COLE of New York: Mr. Chairman, is it possible under the rules of

the Committee of the Whole to by motion dispense with the further reading of a bill?

THE CHAIRMAN: The Chair will say that it requires unanimous consent to suspend the further reading of the bill.

MR. COLE of New York: It is not possible to do that by motion?

THE CHAIRMAN: That motion is not privileged.<sup>(9)</sup>

### ***Motions Offered During Vote***

#### **§ 2.12 The motion that the Committee of the Whole rise is not preferential while the Committee is dividing on a question.**

On Dec. 8, 1944,<sup>(10)</sup> during consideration in Committee of the

9. *Parliamentarian's Note:* In this instance the Committee of the Whole directed the reading in full of the bill on its first reading. The bill was read by title only on the next day when the Committee of the Whole reconvened to resume consideration of it. Although the procedure followed was somewhat unorthodox, it illustrates the point that any Member may demand a full reading of a bill before general debate thereon begins, provided the bill has not previously been read in full. The motion to dispense with the full reading could be made privileged, however, by means of a special rule reported from the Committee on Rules, for example; or the reading in full could be dispensed with by such a rule. Moreover, the motion to rise would be in order, to permit the House, by motion, to dispense with reading.

10. 90 CONG. REC. 9066, 78th Cong. 2d Sess.

7. 97 CONG. REC. 6099-6101, 82d Cong. 1st Sess.

8. Herbert C. Bonner (N.C.).

Whole of H.R. 5587, the first supplemental appropriations bill, several actions were taken in rapid succession:

MR. [JOHN] TABER [of New York]:

Mr. Chairman, I move that all debate on this amendment do now close.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I trust the gentleman will not press that motion.

THE CHAIRMAN:<sup>(11)</sup> The question is on the motion offered by the gentleman from New York [Mr. Taber].

The question was taken, and the Chair announced that the ayes had it.

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, I ask for a division.

THE CHAIRMAN: Those in favor of the motion will rise and be counted.

MR. RANKIN: Mr. Chairman, I move that the Committee do now rise.

THE CHAIRMAN: The Chair calls the attention of the gentleman to the fact that we are in the middle of a vote.

MR. RANKIN: Mr. Chairman, I am offering a preferential motion. I move that the Committee do now rise.

THE CHAIRMAN: The Chair will ask the gentleman to reconsider, because we are in the midst of taking a vote on a motion at this time.

MR. RANKIN: Mr. Chairman, I am offering a preferential motion now.

THE CHAIRMAN: The Chair cannot recognize the gentleman at this time for that purpose.

*Parliamentarian's Note:* The preferential motion to rise is in order until the count has com-

menced. See 88 CONG. REC. 2374, 77th Cong. 2d Sess., Mar. 12, 1942; 88 CONG. REC. 5169, 77th Cong. 2d Sess., June 11, 1942.

### § 3. Remarks in the Congressional Record

#### *Extension and Revision of Remarks*

**§ 3.1 The House and not the Committee of the Whole controls the Congressional Record; for this reason the Committee can neither hold the Record open for later insertions nor permit inclusion of extraneous material. Thus, a request that all Members be permitted five days to revise and extend their remarks on a particular subject is not in order in the Committee of the Whole.**

On Sept. 19, 1967,<sup>(12)</sup> during consideration of H.R. 6418, Partnership for Health Amendments, 1967, Chairman Jack B. Brooks, of Texas, stated that the Committee of the Whole cannot hold the *Congressional Record* open for later insertions because that authority is exercised by the House:

MR. [ANDREW] JACOBS [Jr., of Indiana]: Mr. Chairman . . . I ask unani-

12. 113 CONG. REC. 26032, 90th Cong. 1st Sess.

11. Herbert C. Bonner (N.C.)

mous consent that all Members have 5 legislative days in which to revise and extend. . . .

MR. [BURT L.] TALCOTT [of California]: Mr. Chairman, I object.

THE CHAIRMAN: That request is properly made in the House and not in Committee of the Whole. Objection is not necessary.<sup>(13)</sup>

### ***Expungement of Objectionable Words***

#### **§ 3.2 A motion to expunge words from the Congressional Record is not in order in the Committee of the Whole.**

On Feb. 18, 1941,<sup>(14)</sup> Chairman Warren G. Magnuson, of Washington, stated that the House, not the Committee of the Whole, determines whether to expunge words which have been objected to by a Member in the Committee.<sup>(15)</sup>

13. Although general leave to print may be granted only by the House, a Member, by unanimous consent, may be given leave to extend his remarks in the Committee of the Whole. 5 Hinds' Precedents §§ 7009, 7010 and 8 Cannon's Precedents § 3488. See also Ch. 5, *supra*.

14. 87 CONG. REC. 1126, 77th Cong. 1st Sess.

15. Compare 5 Hinds' Precedents § 6987 for a holding that while the Committee of the Whole does not control the Record, the Chairman, in the preservation of order, may direct the exclusion of disorderly words spoken

MR. [CLARE E.] HOFFMAN [of Michigan]: All we ask in this case is what we do not expect to get, that you stick by the rules of the game you established last year. That is not too much to expect if we adhere to the agreement of last year. This would give us in Michigan the Representative to which we are entitled. But we know what you are going to do. You know what is going to happen. You are going to skin us, are you not? And we have no way to prevent it.

MR. [ROBERT F.] RICH [of Pennsylvania]: I demand that the gentleman's words be taken down.

THE CHAIRMAN: . . . The Clerk will read the words objected to.

The Clerk read as follows:

You know what is going to happen. You are going to skin us, are you not; and we have not any way to

MR. RICH: Mr. Chairman, I ask that those words be expunged from the Record. They are not going to skin anybody around here.

THE CHAIRMAN: That is a matter for the House to decide. The Committee will rise.

*Parliamentarian's Note:* The words could have been withdrawn by unanimous consent, but not by motion.

#### **§ 4. Resolving Into Committee of the Whole**

The House may resolve into the Committee of the Whole pursuant

by a Member after he has been called to order.

to a standing rule, a resolution (i.e., a special rule from the Committee on Rules)<sup>(16)</sup> or on motion.<sup>(17)</sup> The House automatically

**16.** §4.1, *infra*. See 4 Hinds' Precedents §3214, and 7 Hinds' Precedents §§783, 794 for earlier precedents on resolving into the Committee of the Whole pursuant to special order.

**17.** Rule XVI clause 9, *House Rules and Manual* §802 (1979), permits a motion to resolve into the Committee of the Whole to consider bills raising revenue or general appropriation bills anytime after the Journal is read.

Prior to the amendment to Rule XI clause 4(a) [*House Rules and Manual* §726 (1979)] effective Jan. 3, 1975 (H. Res. 988, 93d Cong. 2d Sess., 120 CONG. REC. 34469, 34470), to eliminate the authority of the Committee on Ways and Means to report as privileged bills raising revenue, the motion to resolve into the Committee of the Whole to consider a general appropriation bill were of equal privilege (4 Hinds' Precedents §§3075, 3076). However, the privileged nature of the motion under Rule XVI clause 9 with respect to revenue bills was derived from and was dependent upon the former privilege conferred upon the Committee on Ways and Means under Rule XI clause 4(a) to report revenue measures to the House at any time (4 Hinds' Precedents §3076).

Rule XXIV clause 5, *House Rules and Manual* §891 (1979), permits entertainment of a motion to resolve into the Committee of the Whole after one hour of consideration of

resolves into the Committee of the Whole in certain situations.<sup>(18)</sup> Thus, when a bill on the Union Calendar is called up at the proper time on Calendar Wednesday, the House automatically resolves into the Committee of the Whole.

<sup>(1)</sup> And when a Union Calendar

bills from committees. See 4 Hinds' Precedents §§3072 et seq. and 6 Cannon's Precedents §§716 et seq. for earlier precedents relating to timeliness of the motion to resolve into the Committee of the Whole for consideration of revenue or general appropriation measures, and Jefferson's manual, *House Rules and Manual* §328 (1979), for the form of a motion to resolve into the Committee of the Whole.

Although it is the usual practice to designate the subject to be considered, the House on occasion has resolved into the Committee without designating a specific subject. See 8 Cannon's Precedents §2318.

The motion to go into the Committee of the Whole is in order on District Mondays. *House Rules and Manual* §802 (1979); 6 Cannon's Precedents §§716–718; and 7 Cannon's Precedents §§876, 1123.

**18.** See §4.8, *infra*, for discussion of resolving into Committee after a ruling by the Speaker on words taken down in Committee; and see §10.9, *infra*, for a discussion of procedure in the House after rejecting a recommendation of the Committee to strike the enacting clause.

**1.** *House Rules and Manual* §898 (1979); 7 Cannon's Precedents §939.

bill is the unfinished business on Calendar Wednesday the Speaker declares the House in Committee of the Whole without motion.<sup>(2)</sup>

The motion to resolve into the Committee of the Whole is neither debatable<sup>(3)</sup> nor amendable;<sup>(4)</sup> it may not be laid on the table or indefinitely postponed,<sup>(5)</sup> and the previous question may not be demanded on it.<sup>(6)</sup>

The motion to resolve into the Committee of the Whole is listed seventh in the daily order of business, but the motion is usually given more preferential status by the adoption of a special order reported from the Committee on Rules providing for the consideration of a bill "upon adoption of this resolution."<sup>(7)</sup>

### ***Resolving Pursuant to Resolution***

#### **§ 4.1 Where the House adopts a resolution providing for the**

2. *House Rules and Manual* §898 (1979); 7 Cannon's Precedents §§940, 942.
3. *House Rules and Manual* §802 (1979); 4 Hinds' Precedents §3078; and 6 Cannon's Precedents §716.
4. *House Rules and Manual* §802 (1979); and §725.
5. *House Rules and Manual* §802 (1979); 6 Cannon's Precedents §726.
6. *House Rules and Manual* §802 (1979); 4 Hinds' Precedents §§3077–3079.
7. Rule XXIV clause 1, *House Rules and Manual* §878 (1979).

### **immediate consideration of a measure in Committee of the Whole, the House resolves itself into Committee without a motion being made from the floor.**

On Mar. 17, 1970,<sup>(8)</sup> the House resolved itself into the Committee of the Whole without a motion from the floor after adoption of a resolution providing for consideration of a measure in the Committee:

MR. [B. F.] SISK [of California]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 874 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

#### H. RES. 874

*Resolved*, That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 858) to amend the Agricultural Adjustment Act of 1938 with respect to wheat. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the

8. 116 CONG. REC. 7690, 7691, 91st Cong. 2d Sess. See also 118 CONG. REC. 28829, 28834, 92d Cong. 2d Sess., Aug. 17, 1972, for another illustration.

conclusion of the consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

THE SPEAKER:<sup>(9)</sup> The gentleman from California (Mr. Sisk) is recognized for 1 hour. . . .

MR. SISK: Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

THE SPEAKER: Pursuant to House Resolution 874, the House resolves itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 858) to amend the Agricultural Adjustment Act of 1938 with respect to wheat.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill S. 858, with Mr. Flynt in the chair.

### ***Recognition for Motions to Resolve Provided for by Resolution***

#### **§ 4.2 The recognition by the Speaker of a designated Member to move that the House resolve into the Committee of the Whole to consider a particular bill may be provided for by resolution.**

9. John W. McCormack (Mass.).

On Sept. 27, 1965,<sup>(10)</sup> after the House agreed to a motion discharging a resolution from the Committee on Rules, Speaker John W. McCormack, of Massachusetts, recognized a Member who had been designated by the resolution to move that the House resolve itself into the Committee of the Whole for consideration of H. R. 4644, the District of Columbia home rule bill:

THE SPEAKER: The Clerk will report the resolution. [H. Res. 515].

The Clerk read as follows:

*Resolved*, That upon the adoption of this resolution the Speaker shall recognize Representative Abraham J. Multer, or Representative Carlton R. Sickles, or Representative Charles McC Mathias, Junior, or Representative Frank J. Horton to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4644) to provide an elected mayor, city council, and nonvoting Delegate to the House of Representatives for the District of Columbia, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill and continue not to exceed five hours, to be equally divided and controlled by one of the aforementioned Members and a Member who is opposed to said bill to be designated by the Speaker, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. . . .

THE SPEAKER: The question is on agreeing to the resolution.

10. 111 CONG. REC. 25185-87, 89th Cong. 1st Sess.

Mr. [Howard W.] SMITH of Virginia: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were yeas 223, nays 179, not voting 30.

So the resolution was agreed to. . . .

THE SPEAKER: . . . The Chair recognizes the gentleman from New York [Mr. Multer].

MR. [ABRAHAM J.] MULTER: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4644) to provide an elected Mayor, City Council, and nonvoting Delegate to the House of Representatives for the District of Columbia, and for other purposes.

### ***Speaker's Discretion in Recognize for Motions to Resolve***

**§ 4.3 Where two bills remain undisposed of by the Committee of the Whole, the Speaker, by recognizing for motions to resolve into the Committee for further consideration of those bills, determines in his discretion the order of consideration of that unfinished business, subject to the will of the House as manifested by the vote on the motion.**

On Nov. 2, 1971,<sup>(11)</sup> Speaker Carl Albert, of Oklahoma, indi-

cated that the Chair has discretion to determine the order of consideration of unfinished business by recognizing for motions to resolve into the Committee of the Whole:

MR. [F. EDWARD] HÉBERT [of Louisiana]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. HÉBERT: As I understand the situation as of now, and as related to tomorrow, our understanding is that a continuation of consideration of the bill H.R. 2 will be the first order of business when the House meets tomorrow?

THE SPEAKER: Not under the program, the Chair will answer. There are two unfinished matters pending before the House. One is the Higher Education Act, which has been the unfinished business for several days. It is a matter of discretion of the Chair, and the Chair would like to discuss this matter with all parties concerned.

MR. HÉBERT: I hope the Chair will, because it was my understanding this would be the first order of business tomorrow. That was the reason the committee rose, in deference to the wishes of the Chair.

THE SPEAKER: The Chair will take that up with parties concerned.

### ***Effect of Refusal to Resolve***

**§ 4.4 Although the House may have agreed that an appropriation bill is to take precedence over other legislation, the House may reach the leg-**

11. 117 CONG. REC. 38693, 92d Cong. 1st Sess.

**isolation of lesser privilege by rejecting the motion to resolve into the Committee of the Whole to consider the appropriation bill.**

On May 9, 1950,<sup>(12)</sup> during consideration of H.R. 7786, the general appropriations bill, 1951, Speaker pro tempore John W. McCormack, of Massachusetts, indicated that the House could reach legislation of lesser privilege by rejecting the motion that the House resolve itself into the Committee of the Whole on the appropriations bill.

The House had previously agreed by unanimous consent that consideration of the appropriations bill would take precedence over all business except conference reports. However, Mr. Clare E. Hoffman, of Michigan, sought prior consideration of a resolution disapproving of a reorganization plan.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7786) making appropriations for the support of the Government for the fiscal year ending June 30, 1951, and for other purposes.

MR. HOFFMAN of Michigan: Mr. Speaker, I make the point of order that

the House is not proceeding in the regular order because under section 205a of the Reorganization Act, which is Public Law 109 of the Eighty-first Congress, first session, any Member of the House is privileged, and this is a highly privileged motion, to make the motion that the House proceed to the consideration of House Resolution 516.

The gentleman from Michigan being on his feet to present this highly privileged motion, the regular order is that he be recognized for that purpose that the motion be entertained and the question put before the House, and my motion is that the House proceed to the consideration of House Resolution 516.

THE SPEAKER PRO TEMPORE: That is the resolution disapproving one of the reorganization plans?

MR. HOFFMAN of Michigan: That is right, House Resolution 516 disapproving plan No. 12. . . .

THE SPEAKER PRO TEMPORE: Does the gentleman from Texas desire to be heard on the point of order?

MR. MAHON: Mr. Speaker, on April 5, 1950, as shown at page 4835 of the daily Record of that day, the chairman of the Committee on Appropriations, the gentleman from Missouri [Mr. Cannon] asked and received unanimous consent that the appropriation bill should have the right-of-way over other privileged business under the rules until disposition, with the exception of conference reports. Therefore, I believe the regular order would be to proceed with the further consideration of H.R. 7786.

Mr. Speaker, I believe that the Record would speak for itself. . . .

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, may I be heard on the point of order?

12. 96 CONG. REC. 6720-24, 81st Cong. 2d Sess.

THE SPEAKER PRO TEMPORE: The Chair will hear the gentleman.

MR. RANKIN: I was going to say that if this is of the highest constitutional privilege it comes ahead of the present legislation.

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule. . . .

The question involved is not a constitutional question but one relating to the rules of the House and to the Legislative Reorganization Act of 1949 which has been alluded to by the gentleman from Michigan and other Members when addressing the Chair on this point of order. The Chair calls attention to the language of paragraph (b) of section 201 of title II of the Reorganization Act of 1949 which reads as follows: "with full recognition of the constitutional right of either House to change such rules so far as relating to procedure in such House at any time in the same manner and to the same extent as in the case of any other rule of such House."

It is very plain from that language that the intent of Congress was to recognize the reservation to each House of certain inherent powers which are necessary for either House to function to meet a particular situation or to carry out its will.

On April 5, the gentleman from Missouri [Mr. Cannon], chairman of the Committee on Appropriations, submitted a unanimous-consent request to the House, which was granted, which has the force of a rule, and which relates to the rules of the House governing the consideration of the omnibus appropriation bill while it is before the House and, of course, incidentally affecting other legislation. The consent

request submitted by the gentleman from Missouri was "that the general appropriation bill for the fiscal year 1951 have right-of-way over all other privileged business under the rules until disposition, with the exception of conference reports."

That request was granted by unanimous consent. On the next day the gentleman from Missouri [Mr. Cannon], in correcting and interpreting the consent request granted on April 5, submitted a further unanimous-consent request.

The daily Record shows, on page 4976, April 6, that the gentleman from Missouri [Mr. Cannon] said:

Mr. Speaker, on page 4835 of the daily Record of yesterday, the first column carrying the special order made by the House last night reads that the general appropriation bill shall be a special order privileged above all other business of the House under the rule until disposition. The order made was until final disposition. I ask unanimous consent that the Record and Journal be corrected to conform with the proceedings on the floor of the House yesterday.

The Record further shows that the Speaker put the request and there was no objection.

MR. RANKIN: Mr. Speaker, a parliamentary inquiry. . . .

THE SPEAKER PRO TEMPORE: The Chair recognizes the gentleman.

MR. RANKIN: We for the first time this year have all the appropriations in one bill. Now, if they drag out consideration under the 5-minute rule beyond the 24th, would that not shut the Congress off entirely from voting on any of these recommendations? So we do have a constitutional right to consider these propositions without having them smothered in this way.

THE SPEAKER PRO TEMPORE: The Chair will state that the House always has a constitutional right and power to refuse to go into the Committee of the Whole on any motion made by any Member, so that the House is capable of carrying out its will, whatever may be the will of the majority of the House.

Continuing, the Chair will state that in the opinion of the present occupant, in view of the unanimous-consent request made by the gentleman from Missouri and granted by the House, if any member of the Appropriations Committee moves that the House resolve itself into the Committee of the Whole on the State of the Union to consider the appropriation bill, that motion has preference over any other preferential motion. It is a matter that the House decides when the motion is made as to what it wants to do and it has an opportunity when that motion is made to carry out its will. . . .

MR. [J. PERCY] PRIEST [of Tennessee]: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. PRIEST: My parliamentary inquiry simply is this, that notwithstanding the question of recognition under the unanimous-consent request ordered by the House at the request of the gentleman from Missouri, the matter of consideration still is in the House, is it not? If the House refuses to go into the Committee of the Whole it still is a question for the House to decide; is that not correct?

THE SPEAKER PRO TEMPORE: Exactly, and the gentleman from Michigan or anyone else making the motion

could address the question to the Chair, which question the Chair would then have to pass upon.

### ***Resolving to Consider Resolution of Disapproval***

**§ 4.5 A motion that the House resolve itself into a Committee of the Whole for the consideration of a resolution disapproving a reorganization plan is highly privileged and may be called up by any Member, and the Member is not required to qualify as being in favor of the resolution.**

On June 8, 1961,<sup>(13)</sup> Speaker pro tempore Oren Harris, of Arkansas, indicated that a motion, made pursuant to the Reorganization Act of 1949 [5 USC §912(a)], that the House resolve itself into the Committee of the Whole for consideration of a resolution (H. Res. 303) disapproving a reorganization plan was privileged.

MR. H. R. GROSS [of Iowa]: Mr. Speaker, is it in order and proper at this time to submit a highly privileged motion?

THE SPEAKER PRO TEMPORE: If the matter to which the gentleman refers is highly privileged, it would be in order.

**13.** 107 CONG. REC. 9775-77, 87th Cong. 1st Sess. See also 107 CONG. REC. 12905, 12906, 87th Cong. 1st Sess., July 19, 1961.

MR. GROSS: Then, Mr. Speaker, under the provisions of section 205(a) Public Law 109, the Reorganization Act of 1949, I submit a motion. . . .

MR. [CLARENCE J.] BROWN [of Ohio]: As I understand the parliamentary situation the motion would be to take up the resolution of rejection; is that correct?

THE SPEAKER PRO TEMPORE: The Chair would like to state that the motion has not yet been reported; but the Chair understands that the motion is for the House to go into Committee of the Whole House for the consideration of it.

MR. BROWN: If that should be defeated, of course, we would not have the resolution of rejection before us.

THE SPEAKER PRO TEMPORE: The gentleman is correct. . . .

THE SPEAKER PRO TEMPORE: . . . The Clerk will report the motion offered by the gentleman from Iowa.

The Clerk read as follows:

Mr. Gross moves that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of H. Res. 303 introduced by Mr. Monagan disapproving Reorganization Plan No. 2 transmitted to the Congress by the President on April 27, 1961.

THE SPEAKER PRO TEMPORE: . . . The question is on the motion offered by the gentleman from Iowa [Mr. Gross].

The motion was rejected.

#### **§ 4.6 The rejection of a motion that the House resolve itself into the Committee of the Whole for the consideration of a disapproval resolution**

**does not preclude a subsequent motion to the same effect.**

On June 8, 1961,<sup>(14)</sup> Mr. H. R. Gross, of Iowa, submitted a motion that the House resolve into the Committee of the Whole to consider a resolution disapproving of a reorganization plan. Speaker pro tempore Oren Harris, of Arkansas, indicated that a subsequent motion that the House resolve itself into the Committee of the Whole for consideration of a resolution disapproving the same plan would not be precluded by the rejection of the pending motion.

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HALLECK: As I understand, there is a motion pending to call up what is known as Reorganization Plan No. 2.

THE SPEAKER PRO TEMPORE: The Chair would state that the gentleman from Iowa indicated he would submit such a motion, but it has not been reported.

MR. HALLECK: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it. . . .

MR. HALLECK: If the pending motion is voted down, would it still be in order

14. 107 CONG. REC. 9775-77, 87th Cong. 1st Sess.

at a subsequent date to call up a motion rejecting plan No. 2 for another vote? I ask that because I am opposed to plan No. 2. . . .

THE SPEAKER PRO TEMPORE: The opinion of the Chair, under the Reorganization Act, it could be called up at a subsequent date.<sup>(15)</sup>

MR. HALLECK: In other words, the action that would be taken today would not be final?

THE SPEAKER PRO TEMPORE: The gentleman is correct.

MR. HALLECK: In view of the fact that there was no notice to the membership of the House of Representatives on either side that this matter would come on for action today, if plan No. 2 is not voted on today it would subsequently be voted on?

THE SPEAKER PRO TEMPORE: The gentleman is correct.

### ***After Motion to Discharge***

#### **§ 4.7 The House may resolve itself into the Committee of the Whole to consider a bill before the House as a result of a motion to discharge.**

On Apr. 26, 1948,<sup>(16)</sup> after agreeing to discharge H.R. 2245,

15. Under 5 USC §912(a), it is provided: "When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a reorganization plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. . . ."

16. 94 CONG. REC. 4835, 4841, 4842, 80th Cong. 2d Sess.

to repeal the tax on oleomargarine from the Committee on Agriculture, the House agreed to resolve itself into the Committee of the Whole for consideration of that bill.

MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Speaker, I call up the motion to discharge the Committee on Agriculture from the further consideration of the bill (H.R. 2245) to repeal the tax on oleomargarine.

THE SPEAKER:<sup>(17)</sup> Did the gentleman sign the petition?

MR. RIVERS: I did, Mr. Speaker.

THE SPEAKER: The gentleman qualifies.

The Clerk read the title of the bill.

After conclusion of the debate on the motion to discharge, the following proceedings occurred:

THE SPEAKER: All time has expired.

The question is, Shall the Committee on Agriculture be discharged from further consideration of the bill H.R. 2245?

MR. [CLIFFORD R.] HOPE [of Kansas]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered. The question was taken; and there were—yeas 235, nays 121, answered "present" 2, not voting 72. . . .

THE SPEAKER: Without interfering with the rights of the gentleman from South Carolina to move to go into the Committee of the Whole,<sup>(18)</sup> the Chair

17. Joseph W. Martin, Jr. (Mass.).

18. Rule XXVII clause 4, *House Rules and Manual* §908 (1979) provides:

will entertain consent requests for extensions of remarks only. . . .

MR. RIVERS: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2245) to repeal the tax on oleomargarine; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to 3 hours, the time to be equally divided and controlled by the gentleman from Kansas [Mr. Hope] and myself.

THE SPEAKER: Is there objection to the request of the gentleman from South Carolina?

There was no objection.

THE SPEAKER: The question is on the motion offered by the gentleman from South Carolina.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 2245, with Mr. Arends in the chair.

### ***Resolving After Ruling on Words Taken Down***

#### **§ 4.8 After the Speaker has ruled on words taken down**

"If the motion prevails to discharge one of the standing committees of the House from any public bill or resolution pending before the committee, it shall then be in order for any Member who signed the motion to move that the House proceed to the immediate consideration of such bill or resolution (such motion not being debatable), and such motion is hereby made of high privilege. . . .

### **in Committee, the House automatically again resolves into the Committee of the Whole.**

On Mar. 26, 1965,<sup>(19)</sup> during consideration of H.R. 2362, the elementary and secondary education bill of 1965, and after Speaker John W. McCormack, of Massachusetts, ruled on words taken down in the Committee of the Whole, Chairman Richard Bolling, of Missouri, indicated that a motion that the House resolve itself into the Committee was not necessary because that procedure is automatic.

The proceedings in the House were as follows:

THE SPEAKER: The Clerk will report the words objected to.

The Clerk read as follows:

I might suggest further you can beat this dog all you want for political purposes; you can demagog however subtly and try to scare people off at the expense of the Nation's schoolchildren with your demagoguery<sup>(20)</sup>—

19. 111 CONG. REC. 6107, 89th Cong. 1st Sess. See also 111 CONG. REC. 18441, 89th Cong. 1st Sess., July 27, 1965, for another example of the automatic resolution into the Committee of the Whole following the Speaker's ruling on words taken down in the Committee. Generally, the procedure for taking down words in the Committee of the Whole is discussed at Ch. 29 §§ 48–62, *infra*.
20. The weight of authority now supports the view that allegations of a

THE SPEAKER: The Chair feels that Members in debate have reasonable flexibility in expressing their thoughts.

The Chair sees nothing about the words that contravene the rules of the House. The point of order is not sustained.

The Committee will resume its sitting.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2362) with Mr. Bolling in the chair. . . .

THE CHAIRMAN: The gentleman from New Jersey [Mr. Thompson].

MR. [FRANK] THOMPSON [Jr.] of New Jersey: Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

MR. [ROBERT P.] GRIFFIN [of Michigan]: Mr. Chairman, I object.

There has been no motion to resolve the House into the Committee of the Whole House on the State of the Union. The gentleman is out of order at this point.

THE CHAIRMAN: The House automatically goes back into the Committee of the Whole.

The Chair recognizes the gentleman from New York [Mr. Powell].

### ***Automatic Call of House on Motion to Resolve***

#### **§ 4.9 An automatic roll call was had on a motion to go into**

Member's "demagoguery" do constitute disorderly language in debate. See Ch. 29, Consideration and Debate, § 60, *infra*.

**the Committee of the Whole to consider an appropriation bill after an intervening motion to adjourn was decided in the negative by division vote.**

On Feb. 14, 1946,<sup>(21)</sup> an automatic roll call was had on the motion to go into the Committee of the Whole to consider H.R. 5452, making appropriations for the Departments of the Treasury and the Post Office after rejection of a motion to adjourn.

MR. [LOUIS] LUDLOW [of Indiana]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5452) making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1947, and for other purposes.

THE SPEAKER PRO TEMPORE:<sup>(22)</sup> The question is on the motion offered by the gentleman from Indiana.

The question was taken; and on a division (demanded by Mr. Cochran) there were—ayes 103, no 1.

MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: The Chair will count. [After counting.] One hundred and seventy-four Members present; not a quorum.

21. 92 CONG. REC. 1324, 79th Cong. 2d Sess.

22. John J. Sparkman (Ala.).

MR. [COMPTON I.] WHITE [of Idaho]: Mr. Speaker, I move that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. White) there were—ayes 31, no 103.

So the motion was rejected.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Indiana [Mr. Ludlow].

The Doorkeeper will close the doors, the Sergeant-at-Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 243, nays 16, not voting 171, as follows: . . .

### ***Motion to Resolve as Related to Question of Consideration***

#### **§ 4.10 The question of consideration may not be raised against a motion to resolve into the Committee of the Whole for the consideration of a proposition.**

On May 21, 1958,<sup>(23)</sup> Speaker Sam Rayburn, of Texas, ruled that the question of consideration could not be raised against the motion to resolve into the Committee of the Whole for the consideration of a bill, the motion to resolve being itself a test of the will of the House on consideration:

MR. [HOWARD W.] SMITH of Virginia: May I submit a parliamentary inquiry, Mr. Speaker?

**23.** 104 CONG. REC. 9216, 85th Cong. 2d Sess.

THE SPEAKER: The gentleman may.

MR. SMITH of Virginia: Under what circumstances can the question of consideration be raised?

THE SPEAKER: The Chair tried to say a moment ago that it cannot be raised against the motion to go into the Committee of the Whole, because that is tantamount to consideration, and the House will have an opportunity to vote on that motion.

MR. SMITH of Virginia: In other words, if we demand a vote on that question, then that will be tantamount to raising the question of consideration?

THE SPEAKER: That is correct.

### ***Withdrawing Motion to Resolve***

#### **§ 4.11 A Member may withdraw his motion that the House resolve itself into the Committee of the Whole at any time before the motion is acted upon, and unanimous consent is not required.**

On Mar. 17, 1971,<sup>(24)</sup> Speaker Carl Albert, of Oklahoma, stated that a motion that the House resolve itself into the Committee of the Whole could be withdrawn without House permission at any time before the motion is acted upon.

MR. [EMANUEL] CELLER [of New York]: Mr. Speaker, I move that the House resolve itself into the Com-

**24.** 117 CONG. REC. 6847, 6848, 92d Cong. 1st Sess.

mittee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 223) proposing an amendment to the Constitution of the United States, extending the right to vote to citizens 18 years of age or older.

THE SPEAKER: The question is on the motion offered by the gentleman from New York.

For what purpose does the gentleman from Iowa rise?

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. GROSS: Is it proposed to take up this joint resolution at this hour?

THE SPEAKER: For general debate only.

MR. GROSS: Mr. Speaker, I intend to make a point of order that a quorum is not present.

MR. CELLER: Mr. Speaker, I withdraw the motion.

MR. GROSS: Mr. Speaker, does that not require unanimous consent?

THE SPEAKER: The gentleman has the authority of withdrawing his motion before it is acted upon by the House.

The gentleman has withdrawn his motion.

**§ 4.12 The chairman of the committee, at the request of the Speaker, withdrew his motion to go into Committee of the Whole to consider a bill reported by his committee, in order that the House might consider emergency legislation reported by another committee.**

On Dec. 9, 1970,<sup>(25)</sup> the Chairman of the Committee on Foreign Affairs, Thomas E. Morgan, of Pennsylvania, at the request of Speaker John W. McCormack, of Massachusetts, withdrew his motion that the House resolve itself into the Committee of the Whole. This motion was withdrawn to enable the House immediately to consider emergency railroad strike legislation reported by the Committee on Interstate and Foreign Commerce.

MR. MORGAN: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 19911) to amend the Foreign Assistance Act of 1961, and for other purposes. . . .

THE SPEAKER: Will the gentleman from Pennsylvania (Mr. Morgan) withdraw his motion for the consideration of the bill H.R. 19911.

MR. MORGAN: Mr. Speaker, I withdraw the motion to go into Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 19911. . . .

Mr. [William M.] Colmer [of Mississippi], from the Committee on Rules, reported the following privileged resolution (H. Res. 1300, Rept. No. 91-1687), which was referred to the House Calendar and ordered to be printed:

H. RES. 1300

*Resolved*, That upon the adoption of this resolution it shall be in order

25. 116 CONG. REC. 40688—91, 91st Cong. 2d Sess.

to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 1413) to provide for a temporary prohibition of strikes or lockouts with respect to the current railway labor-management dispute.

. . .

MR. COLMER: Mr. Speaker, I call up House Resolution 1300 and ask for its immediate consideration.

THE SPEAKER: The Clerk will report the resolution.

***Procedure of Motion to Resolve Over Motion to Discharge***

**§ 4.13 To a motion that the House resolve itself into the Committee of the Whole House on the state of the Union for consideration of a bill, a motion that the Committee of the Whole be discharged and that the bill be laid on the table is not preferential and not in order.**

On Apr. 2, 1938,<sup>(26)</sup> during consideration of S. 3331, regarding government reorganization, Speaker William B. Bankhead, of Alabama, ruled that a motion that the Committee of the Whole be discharged and that the bill be laid on the table is not preferential to a motion that the House resolve itself into the Com-

mittee of the Whole for consideration of a bill:

MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 3331) to provide for reorganizing agencies of the Government, extending the classified civil service, establishing a General Auditing Office and a Department of Welfare, and for other purposes.

THE SPEAKER: The gentleman from Missouri moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 3331) to provide for reorganizing agencies of the Government, extending the classified civil service, establishing a General Auditing Office and a Department of Welfare, and for other purposes.

MR. [JOHN J.] O'CONNOR of New York: Mr. Speaker—

THE SPEAKER: For what purpose does the gentleman from New York rise?

MR. O'CONNOR of New York: To offer a preferential motion.

THE SPEAKER: The Clerk will report the motion.

The Clerk read as follows:

Mr. O'Connor of New York moves that the Committee of the Whole House on the state of the Union be discharged from further consideration of the bill S. 3331, and that said bill be laid on the table.

MR. [LINDSAY C.] WARREN [of North Carolina]: A point of order, Mr. Speaker.

26. 83 CONG. REC. 4621, 75th Cong. 3d Sess.

THE SPEAKER: The gentleman will state it.

MR. WARREN: Mr. Speaker, it is obvious, of course, even to the gentleman from New York, great parliamentarian that he is, that this motion is merely dilatory. The motion pending before the House is that the House resolve itself into the Committee of the Whole House on the state of the Union. This is the only motion now pending. A motion to lay the bill on the table when it is not even up for consideration is entirely out of order.

MR. O'CONNOR of New York: Mr. Speaker, under clause 4, rule XVI,<sup>(1)</sup> the motion I offer is a preferential motion. It must be made in the House, it cannot be made in the Committee of the Whole. A motion has been made to consider the bill. A motion to lay the bill on the table is preferential, I submit, according to the authorities I have examined and under the exact language of clause 4, rule XVI.

THE SPEAKER: The Chair is ready to rule.

The gentleman from New York [Mr. O'Connor] offers what he states is a preferential motion that the Com-

mittee of the Whole House on the state of the Union be discharged from consideration of the bill S. 3331, and said bill be laid on the table.

The Chair is of the opinion that under the rules of the House a motion of this sort is not a preferential motion, and therefore not in order. The matter now pending is a simple motion that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill, and under the precedents a motion to discharge the Committee of the Whole House on the state of the Union from the further consideration of a bill is not a privileged motion.

The Chair sustains the point of order.

*Parliamentarian's Note:* Even if the motion had been a straight motion to lay on the table, it would not have been in order since the bill was not "under debate" and therefore not subject to motions under clause 4, Rule XVI.

## B. THE CHAIRMAN

### § 5. Speaker's Appointment of Chairman

When the early rules of the House were first drafted, the Chairman of the Committee of the

Whole was elected by the House following the custom of the British Parliament. A 1794 modification altered the method of selection from election by the Members to appointment by the Speaker.<sup>(2)</sup>

1. *House Rules and Manual* § 782 (1973).

2. Rule XXIII clause 1, *House Rules and Manual* § 861 (1979); Jefferson's

Rule XXIII clause 1 mandates the Speaker “in all cases” to leave the Chair after appointing a Chairman of the Committee of the Whole. This requirement is rooted in the history of the British House of Commons and the original purpose of the Committee of the Whole. The Speaker of the House of Commons during the reign of the Stuarts was a partisan of the King who reported proceedings to him. To preserve their confidences, Members of the House of Commons formed the Committee of the Whole and elected one of their colleagues to preside over debates on financial matters. The Speaker was not permitted in the Hall of the House of Commons during these meetings.<sup>(3)</sup>

### ***In General***

#### **§ 5.1 Parliamentarian's Note: The Chairman of the Committee of the Whole is ap-**

Manual, House Rules and Manual §328 (1979); and 4 Hinds' Precedents §4704.

3. See 99 CONG. REC. 1897, 1898, 83d Cong. 1st Sess., Mar. 12, 1953, for a statement by Representative Clarence Cannon, and Reed, Thomas B., *Reed's Rules, A Manual of General Parliamentary Law*, Rand, McNally & Co., 1894, p. 67, for discussions of the origin of the Committee of the Whole.

**pointed by the Speaker. The Chairman decides questions of order arising in the Committee independently of the Speaker. He recognizes for debate, but like the Speaker is forbidden to recognize for requests to suspend the rule of admission to the floor.**

Rule XXIII clause 1 provides that “In all cases, in forming a Committee of the Whole House, the Speaker shall leave his chair after appointing a Chairman to preside, who shall, in case of disturbance or disorderly conduct in the galleries or lobby, have power to cause the same to be cleared.”<sup>(4)</sup>

As to admission to the floor, Rule XXXII clause 1 provides: “The persons hereinafter named, and none other, shall be admitted to the Hall of the House or rooms leading thereto . . . and it shall not be in order for the Speaker to entertain a request for the suspension of this rule. . . .”<sup>(5)</sup> The rule also applies to the Chairman of the Committee of the Whole (see 5 Hinds' Precedents §7285).

### ***Chairman Pro Tempore***

#### **§ 5.2 Where the Member named by the Speaker to act**

4. *House Rules and Manual* §861 (1979).
5. *House Rules and Manual* §919 (1979).

**as Chairman of the Committee of the Whole is not present at the time the House resolves into Committee, the Speaker may ask another Member to assume the chair as Chairman pro tempore pending the arrival of the Chairman.**

On Oct. 18, 1967,<sup>(6)</sup> Speaker pro tempore Carl Albert, of Oklahoma, designated one Member, Charles A. Vanik, of Ohio, as Chairman of the Committee of the Whole and, because Mr. Vanik was not present when the House resolved into Committee, appointed another, Member, Daniel D. Rostenkowski, of Illinois, to assume the Chair temporarily.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 888), making continuing appropriations for the fiscal year 1968, and for other purposes.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

THE SPEAKER PRO TEMPORE: The Chair designates the gentleman from Ohio [Mr. Vanik], as Chairman of the Committee of the Whole, and requests the gentleman from Illinois [Mr. Rostenkowski] to assume the chair temporarily.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 888), with Mr. Rostenkowski in the chair.

### ***Use of Term "Madam Chairman"***

#### **§ 5.3 A female Member who is appointed Chairman of the Committee of the Whole should be addressed as "Madam Chairman."**

On Sept. 20, 1973,<sup>(7)</sup> during consideration of H.R. 9281, relating to retirement benefits of law enforcement and fire-fighter personnel, Mrs. Martha W. Griffiths, of Michigan, stated the form of address of a female Chairman of the Committee of the Whole.

MR. [H.R.] GROSS [of Iowa]: Madam Chairperson, I yield myself such time as I may consume.

Madam Chairman, I was interested to hear the gentleman speak of the special benefits given to municipal employees of the city of New York. . . .

THE CHAIRMAN: For the benefit of Members, the Chair would like to announce that the Chair is properly addressed as Madam Chairman. While she seems to be neutral, she is not neuter.

6. 113 CONG. REC. 29277, 90th Cong. 1st Sess.

7. 119 CONG. REC. 30589, 30592, 30594, 93d Cong. 1st Sess.

## § 6. Chairman's Role; Jurisdiction

Points of order relating to procedure arising in the Committee of the Whole are decided by the Chairman.<sup>(8)</sup> Rule XXIII clause 1<sup>(9)</sup> empowers the Chairman to cause the galleries or lobbies to be cleared in case of disturbance or disorderly conduct. Nonetheless, in cases of extreme disorder the Speaker has taken the Chair and restored order without a formal rising of the Committee.<sup>(10)</sup> The Chairman is assisted by the Sergeant at Arms who attends sittings of the Committee to main-

tain order under direction of the Chair.<sup>(11)</sup>

In the Committee of the Whole only the Chairman may recognize Members for debate.<sup>(12)</sup> However, like the Speaker, he is forbidden from recognizing requests to suspend the rule of admission to the floor.<sup>(13)</sup> The Chairman has a duty to call to order any Member who violates the privileges of debate<sup>(14)</sup> even in the absence of any suggestion from the floor.<sup>(15)</sup>

### *Ruling on Points Not in Issue*

#### § 6.1 The Chair does not rule on issues not presented in a point of order.

On June 27, 1949,<sup>(16)</sup> during consideration of H.R. 4009, the

8. 5 Hinds' Precedents §§ 6927, 6928. But see 4 Hinds' Precedents § 4783, which states that in an exceptional case the Committee rose and reported a question of order for decision of the House when an appeal was taken from a ruling of the Chairman.

In rare cases where the Chairman has been defied or insulted, he has directed the Committee to rise, left the Chair, and, following assumption of the Chair by the Speaker, reported the facts to the House. Note to Rule XXIII clause 1, *House Rules and Manual* § 862 (1973); 2 Hinds' Precedents §§ 1350, 1651, 1653.

9. *House Rules and Manual* § 861 (1979).

10. Note to Rule I clause 2, *House Rules and Manual* § 622 (1979); 2 Hinds' Precedents §§ 1348, 1648–1653, 1657.

11. Rule IV clause 1, *House Rules and Manual* § 648 (1979); Rule XXIII clause 1, *House Rules and Manual* § 862 (1979); and 1 Hinds' Precedents § 257.

12. 5 Hinds' Precedents § 5003. See § 15, *infra*, for a discussion of recognition for debate.

13. 5 Hinds' Precedents § 7285. See also Rule XXXII, *House Rules and Manual* §§ 919–921 (1979) relating to admission to the floor.

14. 8 Cannon's Precedents § 2515. See § 17, *infra*, for discussion of the procedure when words are taken down.

15. 8 Cannon's Precedents § 2520.

16. 95 CONG. REC. 8480, 8536–38, 81st Cong. 1st Sess.

Housing Act of 1949, and after overruling a point of order that certain provisions exceeded the jurisdiction of the Committee on Banking and Currency because they constituted appropriations, Chairman Hale Boggs, of Louisiana, declined to rule on an issue which had not been presented in the point of order.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, the point of order I make is that subparagraphs (e) and (f) of section 102 in title I constitute the appropriation of funds from the Federal Treasury, and that the Committee on Banking and Currency is without jurisdiction to report a bill carrying appropriations under clause 4, rule 21, which says that no bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations.

This is no casual point of order made as a tactical maneuver in consideration of the bill. I make this point of order because this proposes to expand and develop a device or mechanism for getting funds out of the Federal Treasury in an unprecedented degree.

The Constitution has said that no money shall be drawn from the Treasury but in consequence of appropriations made by law. It must follow that the mechanism which gets the money out of the Treasury is an appropriation. . . .

This proposal will give to the Committee on Banking and Currency, if it should be permitted, authority which the Committee on Appropriations does

not have, for in the reporting of an appropriation bill for a fiscal year, any appropriation beyond the fiscal year would be held out of order. Here this committee is reporting a bill which proposes to make mandatory extractions from the Treasury during a period of 4 years. . . .

MR. [JOHN W.] MCCORMACK [of Massachusetts]: . . . The provision in paragraph (f) that my friend has raised a point of order against relates entirely to loans. As we read section 102 of title I it starts out with loans. Throughout the bill, a number of times, there is reference to loans.

Paragraph (e) says:

To obtain funds for loans under this title. . . .

I respectfully submit that it must call for an appropriation out of the general funds of the Treasury in order to violate the rules of the House. This permits the use of money raised by the sale of bonds under the Second Liberty Bond Act for loans to these public agencies, such loans to be repaid with interest.

I respectfully submit, complimenting my friend for having raised the point of order—and certainly, it is not a dilatory one, nor a casual one, one that demands respect—that the point of order does not lie against the language contained in the pending bill. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Chair agrees with the gentleman from South Dakota that the point which has been raised is not a casual point of order. As a matter of fact, as far as the Chair has been able to ascertain, this is the first time a point of order has been raised on this

issue as violative of clause 4 of rule XXI.

As the Chair sees the point of order, the issue involved turns on the meaning of the word "appropriation." "Appropriation," in its usual and customary interpretation, means taking money out of the Treasury by appropriate legislative language for the support of the general functions of Government. The language before us does not do that. This language authorizes the Secretary of the Treasury to use proceeds of public-debt issues for the purpose of making loans. Under the language, the Treasury of the United States makes advances which will be repaid in full with interest over a period of years without cost to the taxpayers.

Therefore, the Chair rules that this language does not constitute an appropriation, and overrules the point of order.

MR. CASE of South Dakota: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. CASE of South Dakota: Would the Chair hold then that that language restricts the Secretary of the Treasury to using the proceeds of the securities issued under the second Liberty Bond Act and prevents him from using the proceeds from miscellaneous receipts or tax revenues?

THE CHAIRMAN: The Chair does not have authority to draw that distinction. The Chair is passing on the particular point which has been raised.

MR. CASE of South Dakota: However, Mr. Chairman, it would seem implicit in the ruling of the Chair and I thought perhaps it could be decided as

a part of the parliamentary history. It might help some courts later on.

THE CHAIRMAN: The Chair can make a distinction between the general funds of the Treasury and money raised for a specific purpose by the issuance of securities. That is the point involved here.

### ***Rulings to Follow Precedents***

#### **§ 6.2 The Chairman follows the precedents of the House in making decisions on points of order.**

On July 28, 1959,<sup>(17)</sup> during consideration of a point of order that an amendment to H.R. 8385, making appropriations for the mutual security program, was legislative in intent, Chairman Wilbur D. Mills, of Arkansas, changed his opinion after being made aware of a precedent in which a point of order to a similar amendment was overruled.

MR. [JOHN V.] DOWDY [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dowdy: On page 5, after line 21, add a new section as follows: "No part of any appropriation contained in this Act shall be expended, in the event any such expenditure will increase, directly or indirectly, the public debt of the United States of America."

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Chairman, I reserve a point of order.

17. 105 CONG. REC. 14521, 14522, 86th Cong. 1st Sess.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN: The gentleman will state the point of order.

MR. TABER: Mr. Chairman, it creates additional duties and changes existing law.

THE CHAIRMAN: The Chair will hear the gentleman from Texas on the point of order.

MR. DOWDY: Mr. Chairman, the amendment I have offered puts a limitation on an appropriation. I offered the same amendment in previous years and it has been held not to be legislation upon an appropriation bill. The fact of the matter is it follows in words section 102 of the present bill.

THE CHAIRMAN: The gentleman from Texas offers an amendment to which the gentleman from New York makes a point of order on the ground that the amendment is legislation on an appropriation bill, therefore not germane to the bill before the Committee. Though the amendment appears to be in the form of a simple limitation on an appropriation bill, the Chair is of the opinion that the amendment itself will place additional duties and responsibilities and functions on someone perhaps in the executive department or in the Congress.

MR. DOWDY: Mr. Chairman, in a previous year that very amendment has been ruled on to the contrary by the Chair.

THE CHAIRMAN: If the gentleman would cite the decision, the Chair would be glad to have it.

MR. DOWDY: I think it was 2 or 3 years ago on this bill. I do not have the decision.

THE CHAIRMAN: The present occupant of the chair does not recall it. In view of the gentleman's statement, the Chair is constrained to withhold his final decision until he can look into the matter. . . .

THE CHAIRMAN: The time of the gentleman from Texas has expired.

The Chair is now prepared to rule on the point of order.

The Chair appreciates the fact that the gentleman from Texas called the attention of the present occupant of the chair to the amendment offered in connection with the appropriation bill for mutual security in 1955. The gentleman from Texas at that time offered an amendment which is not identical with the amendment he offered today, although apparently the purpose of the amendment offered then and that of the amendment offered today are the same. The language varies slightly.

The Chairman of the Committee of the Whole, on that occasion, the gentleman from Pennsylvania [Mr. Walter], held that the amendment offered then in 1955 was merely a limitation. The present occupant of the chair feels constrained to follow the precedent pointed out by the gentleman from Texas and therefore overrules the point of order.

The question is on the amendment offered by the gentleman from Texas [Mr. Dowdy].

### *Clarification of Earlier Ruling*

**§ 6.3 After the Committee of the Whole had agreed that debate on an amendment be limited to five minutes and the Chair had misinterpreted**

**the agreement as limiting debate on the amendment and all amendments thereto, the Chair later the same day apologized to the Committee and to a Member who had been denied the privilege of debate on his amendment to the amendment because of this misinterpretation.**

On May 3, 1946,<sup>(18)</sup> during consideration of H.R. 6056, the 1947 appropriation bill for the Departments of State, Justice, Commerce, and the Judiciary, Chairman Wilbur D. Mills, of Arkansas, apologized for denying Mr. John M. Vorys, of Ohio, the privilege of debate on his amendment to an amendment. The apology was made because the Chairman misinterpreted a unanimous-consent request made by Mr. Louis C. Rabaut, of Michigan, that "all debate on the pending amendment," which had been offered by Mr. Vorys, "close in 5 minutes." Although the unanimous-consent agreement would have barred Mr. Vorys from debating his original amendment because the five minutes had expired at the time he rose to speak, it should not have been applied in this instance because Mr. Vorys rose to speak not on the "pending amendment" but

rather on a new amendment which he sought to offer to the pending amendment.<sup>(19)</sup>

MR. RABAUT: Mr. Chairman, I ask unanimous consent that all debate on the pending amendment close in 5 minutes.

THE CHAIRMAN: Is there objection to the request of the gentleman from Michigan?

There was no objection.

MR. RABAUT: Mr. Chairman, I ask unanimous consent that the amendment offered by the gentleman from Ohio [Mr. Vorys] be read again for the information of the Committee.

THE CHAIRMAN: Is there objection to the request of the gentleman from Michigan?

MR. [JOHN] TABER [of New York]: Mr. Chairman, reserving the right to object, I think we ought to have a little more time.

THE CHAIRMAN: Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk reread the pending Vorys amendment.

MR. RABAUT: Mr. Chairman, the gentleman from Ohio has submitted a very complicated amendment. But the meaning of the amendment is very simple. . . .

THE CHAIRMAN: The time of the gentleman from Michigan has expired. All time has expired. . . .

18. 92 CONG. REC. 4404-06, 4418, 79th Cong. 2d Sess.

19. *Parliamentarian's Note*: If no objection is raised, a proponent of an amendment may amend his own amendment. 116 CONG. REC. 19754, 91st Cong. 2d Sess., June 15, 1970. See Ch. 27, *infra*.

MR. RABAUT: I ask for a vote on the amendment, Mr. Chairman.

THE CHAIRMAN: The question recurs on the amendment.

MR. VORYS of Ohio: Mr. Chairman, I have an amendment, which I send to the Clerk's desk.

THE CHAIRMAN: Is it an amendment to the pending amendment?

MR. VORYS of Ohio: Yes, Mr. Chairman.

THE CHAIRMAN: The Clerk will report the amendment.

MR. RABAUT: A parliamentary inquiry, Mr. Chairman.

THE CHAIRMAN: The gentleman will state it.

MR. RABAUT: On what ground is this amendment considered?

THE CHAIRMAN: The gentleman from Ohio has offered an amendment to his amendment.

MR. RABAUT: But debate has been closed and the gentleman cannot be recognized for debate.

THE CHAIRMAN: The Chair does not recognize the gentleman for debate.

MR. VORYS of Ohio: Mr. Chairman, no debate could possibly have been closed on this amendment which was not offered.

THE CHAIRMAN: The gentleman from Michigan's unanimous-consent request was that all debate close within 5 minutes on the pending amendment and all amendments thereto.

MR. VORYS of Ohio: No, Mr. Chairman.

THE CHAIRMAN: The Clerk will report the amendment offered by the gentleman from Ohio to his amendment.

The Clerk read as follows:

Amendment offered by Mr. Vorys of Ohio to the amendment offered by Mr. Vorys of Ohio: After the words "September 1, 1946," insert "not specifically authorized by act of Congress."

THE CHAIRMAN: The question recurs on the amendment to the amendment.

MR. TABER: Mr. Chairman, I offer a preferential motion.

THE CHAIRMAN: The Clerk will report the preferential motion.

The Clerk read as follows:

Amendment offered by Mr. Taber: Mr. Taber moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

After debate, the motion of Mr. Taber was rejected by voice vote. The amendment of Mr. Vorys to the amendment of Mr. Vorys was rejected on a teller vote of ayes 88, noes 106.

THE CHAIRMAN: The Chair desires to make a statement.

Earlier today, immediately upon the House resolving itself into the Committee of the Whole House on the State of the Union for the consideration of the present bill, H.R. 6065, the chairman of the subcommittee handling the bill propounded a unanimous-consent request which the Chair endeavored to understand. The Chair, in attempting to understand the unanimous-consent request, failed, however, to understand that request as it was transcribed by the official reporter. The Chair has before him the transcript of the record as taken by the official reporter, of the request made by the gen-

tleman from Michigan. The request of the gentleman from Michigan was that all debate on the pending amendment close in 5 minutes. The Chair misunderstood the gentleman so that when the gentleman from Ohio [Mr. Vorys] offered an amendment to his amendment, the gentleman from Ohio, instead of being recognized for the 5 minutes to which he was entitled, was barred by the Chair from speaking in support of his amendment to the amendment.

The Chair wishes to apologize to the Committee and to the gentleman from Ohio [Mr. Vorys] for making a most unintentional misinterpretation of the request of the gentleman from Michigan. The Chair trusts the apology of the Chair may be accepted both by the gentleman from Ohio and the Committee.

### ***Interruption of Debate by Chair***

#### **§ 6.4 The Chair may interrupt a Member of the House in debate when the Member proposes to read the opinions or statements of a Member of the Senate.**

On May 25, 1937,<sup>(20)</sup> during consideration of House Joint Resolution 361, a relief appropriation, Chairman John J. O'Connor, of New York, interrupted a Member who sought to read a letter from a Member of the other body.

MR. [ALFRED F.] BEITER [of New York]: . . . Mr. Chairman, I have let-

20. 81 CONG. REC. 5013, 75th Cong. 1st Sess.

ters here from Members of the Senate saying they are in sympathy with this movement. If you will permit me, I will read a letter from Senator Murray, in which he says—

THE CHAIRMAN: The Chair, on its own responsibility, makes the point of order against the reading of a letter from a Member of another body.<sup>(21)</sup>

### ***Expression of Appreciation to Chairman***

#### **§ 6.5 The House leaders expressed their appreciation for the dignity and fairness of the Chairman of the Committee of the Whole in presiding over debate on an appropriation bill.**

On May 10, 1950,<sup>(22)</sup> House leaders from both parties expressed their appreciation for the manner in which the Chairman,

21. *Parliamentarian's Note*: Jefferson's Manual provides: "It is a breach of order in debate to notice what has been said on the same subject in the other House. . . . Therefore it is the duty of the House, and more particularly the Speaker, to interfere immediately, and not to permit expressions to go unnoticed which may give a ground of complaint to the other House. . . ." *House Rules and Manual* §§ 371–374 (1979). See also Ch. 29, § 44, *infra*.

22. 96 CONG. REC. 6841, 6842, 81st Cong. 2d Sess. The proceedings described are illustrative of courtesies frequently expressed in the House of Representatives.

Jere Cooper, of Tennessee, presided over Committee of the Whole in the consideration of H.R. 7786, the first general appropriation bill, 1951.

MR. [J. PERCY] PRIEST [of Tennessee]: Mr. Chairman, I move to strike out the last word.

Mr. Chairman, within a very few minutes the Committee of the Whole House on the State of the Union will rise and report this omnibus appropriation bill back to the House. The House of Representatives, Mr. Chairman, always appreciates a job well done, and when that job happens to be a difficult and a tedious and a tiring job, the measure of appreciation is all the greater.

I take the floor at the close of this debate to express a very sincere appreciation for the magnificent job done by my distinguished colleague the gentleman from Tennessee [Mr. Cooper] in presiding over this bill in Committee.

I am sure that my sentiments in this respect are shared by every Member of this House on both sides of the aisle.

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Chairman, will the gentleman yield?

MR. PRIEST: I yield to the gentleman from Massachusetts.

MR. MARTIN of Massachusetts: I want to join, in behalf of the Republican Members of this House, in this commendation of our very able Chairman who has conducted himself with great dignity and fairness. We, on this side, appreciate him as we always have.

MR. PRIEST: I thank the gentleman.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, will the gentleman yield?

MR. PRIEST: I yield to the gentleman from Massachusetts.

MR. MCCORMACK: We are all proud of Jere Cooper, not only as a Member of the House, but for the outstanding and the fine manner in which he always has presided over any bill that he has been designated as Chairman of the Committee of the Whole House. I have served with my friend for many years. The people of his district and of his State can well be proud of their Jere Cooper.

MR. PRIEST: I thank the majority leader.

Mr. Chairman, for more than a month this bill has been before the House. Day after day since about April 3 the distinguished gentleman from Tennessee has demonstrated every hour of every day those qualities of patience and fairness and justice that mark him as a great presiding officer.

In addition to his arduous duties of presiding during consideration of this bill, he has carried his part of the load during all of that time as the ranking majority member of the Committee on Ways and Means as it seeks to write a new tax bill.

THE CHAIRMAN: The Chair appreciates the very kind references.

MR. [CLARENCE] CANNON [of Missouri]: Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

## § 7.—Limitations on the Chairman's Jurisdiction

The jurisdiction of the Chairman of the Committee of the

Whole is not unlimited; certain determinations are reserved to the Speaker, the House, or the Committee itself. Thus, the Committee of the Whole, not the Chairman, determines whether language in a committee report is binding,<sup>(1)</sup> and the Speaker responds to inquiries regarding whether a time limitation may be rescinded<sup>(2)</sup> or whether a two-thirds vote is required in the House.<sup>(3)</sup> The House determines the constitutionality of proposed legislation,<sup>(4)</sup> the sufficiency or legal effect of committee reports,<sup>(5)</sup> and whether the Committee of the Whole may sit in executive session.<sup>(6)</sup>

### ***Constitutional Questions***

#### **§ 7.1 The Chairman does not pass on questions of constitutionality.**

On Mar. 11, 1958,<sup>(7)</sup> during consideration of S. 497, authorizing the construction, repair, and preservation of certain public works on rivers and harbors for naviga-

tion, Chairman Howard W. Smith, of Virginia, referred to the power of the Chair to rule on constitutional questions.<sup>(8)</sup>

MR. [DONALD E.] TEWES [OF WISCONSIN]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Tewes: On page 57, immediately after line 22, insert the following:

"Sec. 211. For the purpose of disapproval by the President, each paragraph of each of the preceding sections, shall be considered a bill within the meaning of article I, section 7, of the Constitution of the United States, and each such paragraph which is disapproved shall not become law unless repassed in accordance with the provisions of section 7, article I, of the Constitution relating to the repassage of a bill disapproved by the President."

And renumber the following section accordingly.

MR. [FRANK E.] SMITH of Mississippi: Mr. Chairman, I make a point of order against the amendment on the ground that such language is entirely out of order on any type of legislation. We do not have a provision in our Constitution for an item veto.

MR. TEWES: Mr. Chairman, I do not think that constitutional provisions are involved.

1. § 7.16, *infra*.

2. § 7.12, *infra*.

3. § 7.13, *infra*.

4. § 7.2, *infra*.

5. § 7.17, *infra*.

6. § 7.18, *infra*.

7. 104 CONG. REC. 4020, 85th Cong. 2d Sess.

8. See also 112 CONG. REC. 25677, 89th Cong. 2d Sess., Oct. 7, 1966, in which Chairman Charles M. Price (Ill.), stated that the Chair does not pass on constitutional questions; and see 94 CONG. REC. 5817, 80th Cong. 2d Sess., May 13, 1948, for another illustration of this principle.

THE CHAIRMAN: The Chair is ready to rule. The Chair does not pass upon constitutional questions. The amendment seems to be pertinent to the bill and relates to the bill. Therefore, the Chair overrules the point of order.

**§ 7.2 The question of the constitutionality of proposed legislation is a matter for the House, and not the Chairman, to decide.**

On May 10, 1973,<sup>(9)</sup> during consideration of an amendment to H.R. 7447, Chairman Jack B. Brooks, of Texas, ruled on the authority to decide constitutional questions.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Chairman, I have a point of order against the language beginning at page 6, line 10 through line 12.

THE CHAIRMAN: The gentleman will state his point of order.

MR. YATES: Mr. Chairman. I make a point of order against the language set forth in lines 10, 11, and 12, on page 6.

Article I, section 8, of the Constitution of the United States says:

The Congress shall have the power to declare war.

Congress has not declared war against Cambodia or Laos or against any other country in Southeast Asia for that matter. Congress has not given the President any authority to use the American Armed Forces in Cambodia and Laos. Nevertheless, on

order of President Nixon, American military planes are bombing in both those countries. The appropriation contained in the transfer authority includes funds to continue the bombing of Cambodia and Laos. That appears in the report of the committee and in the testimony of the committee. This has been conceded by witnesses appearing before the committee, and Secretary of Defense Richardson again stated to the press yesterday that whether or not Congress approves the transfer authority, the bombing would continue. . . .

I am asking the Chair for its ruling on two points. One, I ask the Chair to rule with respect to military appropriations which provide funds for American Armed Forces to engage in war under rule XXI, section 2, of the Rules of Procedure of the House of Representatives, which states there must be, as well as any other legislation authorizing such action, compliance with article I, section 8, of the U.S. Constitution, which requires the approval of the Congress for American Armed Forces to engage in that war. . . .

THE CHAIRMAN: Before the Chair will rule on this he will ask the Clerk to read the section on which the point of order was raised. The paragraph beginning on line 9.

The Clerk read as follows:

Section 735 of the Department of Defense Appropriation Act, 1973, is amended by deleting "\$750,000,000" and inserting "\$1,180,000,000" in lieu thereof. . . .

The Chair is ready to rule.

The Chair has read the resolution, and the resolution adopted by the House under which this legislation is being considered says that—

9. 119 CONG. REC. 15290, 15291, 93d Cong. 1st Sess.

All points of order against said bill for failure to comply with the provisions of clause 2 and clause 5 of rule XXI are hereby waived.

Under clause 2, which the Chair has read, the pending paragraph would be subject to a point of order, as legislation, were it not for this rule.

The Chair is not in a position, nor is it proper for the Chair to rule on the constitutionality of the language, or on the constitutionality or other effect of the action of the House in adopting the resolution of the Committee on Rules. In the head notes in the precedents of the House it very clearly states that it is not the duty of a chairman to construe the Constitution as it may affect proposed legislation, or to interpret the legality or effect of language; and the Chair therefore overrules the point of order raised by the gentleman from Illinois (Mr. Yates).

**§ 7.3 It is the duty of the Chairman to determine whether the provisions in a pending bill conform to the rules of the House, but the Chair will not construe the constitutional validity of those provisions.**

On May 10, 1973,<sup>(10)</sup> during consideration of an amendment to H.R. 7447, supplemental appropriations for fiscal year 1973, Chairman Jack B. Brooks, of Texas, determined that the amendment conformed to the

10. 119 CONG. REC. 15290, 15291, 93d Cong. 1st Sess.

House rules, but declined to construe the constitutional validity thereof.<sup>(11)</sup>

***Merits of Proposed Legislation***

**§ 7.4 It is not the function of the Chair to pass upon the merits of a proposed amendment or bill.**

On May 19, 1948,<sup>(12)</sup> during consideration of H.R. 5852, regarding control of subversive activities, Chairman James W. Wadsworth, Jr., of New York, stated that the Chairman in ruling on a point of order does not pass on the merits of proposed legislation.

MR. [SAM] HOBBS [of Alabama]: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Hobbs. . . .

"Sec. 20. (a) That the deportation of aliens provided for in this act and all other immigration laws of the United States shall be directed by the Attorney General, within his discretion and without priority of preference because of their order as herein set forth, either to the country from which such alien last entered the United States; or to the country in which is located the foreign port at which such alien embarked for the United States . . . ."

MR. [KARL [E.] [MUNDT] of South Dakota]: Mr. Chairman, I make the

11. See § 7.2, *supra*, for the relevant debate on May 10.

12. 94 CONG. REC. 6139, 6140, 80th Cong. 2d Sess.

point of order against the amendment that it is not germane to the pending bill, H.R. 5852. It seems to me the gentleman's amendment, which I believe is in actuality a bill which is before the House and before another committee, deals with the arrangements and techniques of deportation proceedings, which do not properly fall within the province of the House Committee on Un-American Activities, so in my opinion the amendment should not be attached with germaneness to legislation of this type. Regardless of the merits of Mr. Hobbs' proposal, I submit it should come before us as a separate measure and not be added as overburden to H.R. 5852.

THE CHAIRMAN: Does the gentleman from Alabama care to be heard on the point of order?

MR. HOBBS: I certainly do, Mr. Chairman.

THE CHAIRMAN: The Chair will hear the gentleman.

MR. HOBBS: Mr. Chairman, the amended title of this bill is "A bill to protect the United States against un-American and subversive activities." That is the declared purpose of the bill. In the subcommittee's report on the legislation we have been considering it is stated:

The subcommittee recommends the immediate consideration by the Judiciary Committee of the House of proposals which would require all aliens to register annually with the Department of Justice, allow the Department of Justice to hold deportable aliens in custody until arrangements for their deportation can be concluded, and provide for strict reciprocity in the granting of visas and in the treatment of aliens from Communist-dominated countries.

I submit, Mr. Chairman, in all earnestness and candor, that when you are dealing with a problem that goes to un-American and subversive activities you cannot find any activity that is more important to prevent the poisoning of the body politic of this Nation than the one to which my amendment addresses itself. It has already been considered by the Judiciary Committee of the House, it has already been granted a rule by the Rules Committee, and it has already passed this House. In substance it is identical with H.R. 5643 of the Seventy-sixth Congress, that did pass this House. It is no fault of ours that it is not the law of the land today. . . .

THE CHAIRMAN: The Chair is ready to rule.

The Chair would remind the gentleman from Alabama, of course, that his function is not to pass upon the merits of an amendment nor to pass upon the merits of the bill which the gentleman says has already passed the House. The Chair may personally find himself in complete agreement with the objective sought by the legislation which the gentleman from Alabama espouses, but the legislation to which he refers, as the Chair understands, has to do with the immigration and naturalization laws of the United States. This bill pending before the Committee of the Whole does not approach that subject. Its title is "Subversive Activities Control Bill, 1948." It comes from the Committee on Un-American Activities. That committee has no jurisdiction over legislation having to do with immigration and naturalization laws. Therefore, the Chair holds that the amendment is not germane.

MR. HOBBS: Mr. Chairman, may I call the attention of the Chair to the

fact that it deals with the question of the issuance of passports and prohibits such issuance.

The Chairman: The proposal of the gentleman goes far beyond that. The point of order is sustained.

### ***Consistency of Proposal With Existing Law***

#### **§ 7.5 It is not within the province of the Chairman to interpret the consistency of a provision in a legislative bill with the provisions of existing law.**

On June 7, 1973,<sup>(13)</sup> during consideration of H.R. 7645, to authorize appropriations for the Department of State, Chairman Robert C. Eckhardt, of Texas, ruled on the scope of the Chair's authority to interpret a proposed bill.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I make a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. GROSS: Mr. Chairman, I make a point of order against the language to be found on page 2, paragraph 2, lines 16 and 17, as being in violation of the law and therefore not authorized.

Mr. Chairman, section 286(c), title 22, United States Code, which is derived from section 5 of the Bretton Woods Agreement Act, provides as follows:

Unless Congress by law authorizes such action neither the President nor

any person or agency shall on behalf of the United States propose or agree to any change in the par value of the United States dollar.

Mr. Chairman, I repeat "propose or agree to any change." Mr. Chairman, reading from the report accompanying this bill on page 6:

Paragraph (2) authorizes an appropriation not to exceed \$12,307,000 to offset increased costs abroad resulting from the dollar devaluation . . .

Mr. Chairman, I ask that my point of order be sustained on the ground that the purpose of this specific authorization is the result of a change in the par value of the dollar which has not been validated.

THE CHAIRMAN: Does the gentleman from Ohio wish to be heard on the point of order?

MR. [WAYNE L.] HAYS [of Ohio]: I do.

Mr. Chairman, I recall a previous ruling in which the Chair at one time ruled that the question of the constitutionality did not have any bearing on the point of order if the language were properly included in the bill and were not on an amendment subject to a point of order.

This is an amount of money put in at the request of the State Department. It has nothing to do with any possible action by the Banking and Currency Committee one way or the other.

Whether we like it or not, whether there has been any congressional action or not, in order to carry on the normal operations at the present time, it is going to require \$12 million more to purchase the foreign currency necessary than it would have.

This is not a devaluation by an act of Congress. This is a pragmatic recogni-

13. 119 CONG. REC. 18502, 18503, 93d Cong. 1st Sess.

tion of the loss of value of the dollar. And when the State Department buys foreign currency with which to pay its bills, it has to pay this much additional. By the time this becomes enacted into law, if the present policies continue, it may cost a great deal more than this.

So, it has nothing to do with any action of Congress or any law.

MR. GROSS: Mr. Chairman, may I be heard further, briefly.

I point out to the Chair that no legislation has been approved by Congress and signed by the President changing the par value of the dollar.

MR. HAYS: Mr. Chairman, may I be heard further?

The action of the Congress and the President has nothing to do with the purchase of foreign currency. When we go to buy it, we do not set the rate of exchange. The President of the United States and the Secretary of the Treasury have allowed the dollar to float, and it did not float; it sunk.

Therefore, this is a pragmatic situation. We have to pay what the market price is. Under a float, there is no fixed currency exchange rate. This has nothing to do in any way with any action of Congress.

THE CHAIRMAN: The Chair is ready to rule.

The bill provides an authorization for an appropriation for expenses of the Department of State overseas. The expenditures are merely referred to as resulting from the devaluation of the dollar and do not bring about that devaluation. The language in the bill simply authorizes expenses of the Department of State, and is in order in bill of this type.

All the Chair can do is interpret the rules of the House. There is no rule of the House called in controversy here.

The Chair overrules the point of order.

### *Hypothetical Questions*

#### **§ 7.6 The Chairman does not rule on hypothetical questions.**

On Mar. 19, 1952,<sup>(14)</sup> after Chairman Wilbur D. Mills, of Arkansas, sustained a point of order raised by Mr. Clarence Cannon, of Missouri, to an amendment offered by Mr. Thomas A. Pickett, of Texas, Mr. John Phillips, of California, propounded a parliamentary inquiry as to whether the amendment would have been in order if the factual situation had been slightly different. The Chair refused to pass judgment on the hypothetical case. The proceedings were as follows:

MR. PICKETT: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Pickett: On page 3, after line 14, insert a new heading and the following language:

“DISASTER RELIEF

“The unobligated balances at the end of June 30, 1952, of appropria-

14. 98 CONG. REC. 2543, 82d Cong. 2d Sess. Under consideration was H.R. 7072, an independent executive offices appropriation bill for fiscal 1953.

tions heretofore made for Disaster Relief under the act of September 30, 1950 (Public Law 875); the Independent Offices Appropriation Act of 1952; act of July 18, 1951 (Public Law 80); and the act of October 24, 1951 (Public Law 202), shall, to the extent that they exceed in the aggregate \$5,000,000, not be available for obligation after June 30, 1952, and shall be recovered to the Treasury as miscellaneous receipts."

MR. CANNON: Mr. Chairman, I make the point of order, first, that the amendment is not germane to the bill. It has no relation to any item in the bill.

Second, it is legislation on an appropriation bill.

On both counts, or on either count, it is subject to a point of order.

THE CHAIRMAN: Does the gentleman from Texas [Mr. Pickett] desire to be heard on the point of order?

MR. PICKETT: Mr. Chairman, it occurs to me that this is a limitation of an appropriation. Its effect certainly is to recover into the Treasury moneys which are just floating around, and apparently serving no purpose at this time. It never occurred to me, of course notwithstanding whatever the rule might be, that we would avoid trying to save money here just by raising points of order. It seems to me that we might save a little money by even legislating some time. I hope the point of order will be overruled.

THE CHAIRMAN: The Chair is ready to rule. The gentleman from Texas [Mr. Pickett] has offered an amendment. The gentleman from Missouri [Mr. Cannon] makes a point of order against the amendment on the ground it is not germane to the bill before the Committee and that it is legislation on

an appropriation bill. The Chair has had an opportunity to read the amendment proposed by the gentleman from Texas. The amendment does not, as the Chair understands, apply to funds contained in the pending bill H.R. 7072, but has reference to funds which have been made available by the Congress in other legislation. Therefore, the amendment is not germane and is clearly legislation on an appropriation bill. The Chair is constrained to sustain the point of order.

MR. PHILLIPS: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. PHILLIPS: Mr. Chairman, would it have been in order if the gentleman from Texas made it a transfer of the funds to the Housing and Finance Agency, which comes on about page 53, and which already has a fund for distress purposes, and merely transfer this money to that fund? It would, therefore, be a limitation upon it.

THE CHAIRMAN: I am sure the gentleman from California will agree with the Chair when the Chair calls the gentleman's attention to the fact that the present occupant of the Chair has enough trouble without having to pass judgment on a hypothetical case.

MR. PICKETT: Mr. Chairman, if I might be heard further, I might say that if there is any possibility that the amendment is germane, it will be offered at that point.

**§ 7.7 The Chairman does not respond to hypothetical questions even though raised under the guise of a parliamentary inquiry.**

On Mar. 26, 1965,<sup>(15)</sup> during consideration of H.R. 2362, the elementary and secondary education bill of 1965, Chairman Richard Bolling, of Missouri, declined to respond to a hypothetical question which had been raised as a parliamentary inquiry.

MR. [ALBERT H.] QUIE [of Minnesota]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. QUIE: Mr. Chairman, if I had risen to move to strike out the last word, rather than offering an amendment which would be voted on, then would the extra 5 minutes have been I divided equally?

THE CHAIRMAN: The Chair is not in position to answer that kind of question.

MR. QUIE: It may happen in the future as we go along with the debate.

THE CHAIRMAN: The Chair will meet the situation as it arises.

**§ 7.8 The Chairman will not entertain as a parliamentary inquiry a hypothetical question regarding the effect which the defeat of a pending amendment would have on the propriety of another amendment which has not been offered.**

On Nov. 30, 1971,<sup>(16)</sup> during consideration of H.R. 11060, the

15. 111 CONG. REC. 6114, 89th Cong. 1st Sess.

16. 117 CONG. REC. 43377, 92d Cong. 1st Sess.

Federal Election Campaign Act of 1971, Chairman Richard Bolling, of Missouri, refused to give a specific answer to a question as to whether an amendment—not yet before the House—might be entertained after the defeat of the pending amendment.

MR. [FRANK E.] EVANS of Colorado: Mr. Chairman, I have asked the gentleman from Illinois to yield to me for the purpose of posing a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. EVANS of Colorado: In the event the amendment offered by the distinguished gentleman from Ohio (Mr. Hays) is defeated, will we then be in a position to entertain an amendment as described by the gentleman from Illinois (Mr. Anderson)?

THE CHAIRMAN: The Chair will reply to the gentleman from Colorado that the Chair cannot anticipate events precisely. If the amendment offered by the gentleman from Ohio (Mr. Hays) to this particular section is voted down, then another germane amendment to the particular area could be offered.

***Anticipating House Action***

**§ 7.9 The Chairman of the Committee of the Whole does not predict what action may take place in the House after the Committee rises.**

On Mar. 24, 1949,<sup>(1)</sup> during consideration of H.R. 2681, to provide

1. 95 CONG. REC. 3110–15, 81st Cong. 1st Sess.

pensions for veterans of World World Wars I and II based on nonservice-connected disability and attained age, Chairman Albert A. Gore, of Tennessee, made reference to the power of the Chairman to anticipate House action following a rise of the Committee.

MR. [OLIN E.] TEAGUE [of Texas]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Teague moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

MR. TEAGUE: Mr. Chairman, the purpose of this motion is not to kill the bill. The purpose of this motion is to bring it back before the House, at which time I will make a motion to recommit it to the Committee on Veterans' Affairs for further study. I think it is obvious from what has happened in the last 2 days that the bill deserves further study. . . .

MR. [GEORGE A.] SMATHERS [of Florida]: Mr. Chairman, is this not the parliamentary situation that if the motion is agreed to on this teller vote, then the Committee rises and a motion will be offered in the House to recommit the bill at which time there will be a yea-and-nay vote, the first recorded vote?

THE CHAIRMAN: As Chairman of the Committee of the Whole, the Chairman cannot construe what action may take place in the House. The Chairman can only report the action of the Com-

mittee of the Whole to the House when and if the Committee should rise.

**§ 7.10 The Chairman of the Committee of the Whole does not rule on procedural questions that may be directed to the Speaker when a bill is reported back to the House.**

On Oct. 8, 1969,<sup>(2)</sup> during consideration of amendments to H.R. 14159, the public works appropriation measure for fiscal year 1970, Chairman Wayne N. Aspinall, of Colorado, declined to rule on whether an amendment to the bill would be permissible in the House.

THE CHAIRMAN: . . . For what purpose does the gentleman from Michigan (Mr. O'Hara) rise?

MR. [JAMES G.] O'HARA: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. O'HARA: Would it be possible to offer an amendment to the language on page 14, lines 15 through 17, in the House after the Committee rises?

THE CHAIRMAN: That request would have to be taken care of at the time a motion ordering the previous question is made.

MR. O'HARA: But if the previous question were not ordered, the amendment would then be in order?

THE CHAIRMAN: That question would be determined by the Speaker of the House.

2. 115 CONG. REC. 29219, 29220, 91st Cong. 1st Sess.

**§ 7.11 The Chairman of the Committee of the Whole does not anticipate or suggest what parliamentary decisions may be rendered in the House by the Speaker.**

On May 18, 1966,<sup>(3)</sup> during consideration of H.R. 14544, the Participation Sales Act of 1966, Chairman Eugene J. Keogh, of New York, refused to anticipate decisions that the Speaker might render.

MR. [CHARLES R.] JONAS [of North Carolina]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. JONAS: In case the bill agreed on in the conference should delete this amending language, and the bill which came back to the House contained the objectionable language, against which the point of order was lodged, could a point of order be made against the conference report to strike that language?

THE CHAIRMAN: The present occupant of the chair would not assume to undertake to suggest what would be done by the Speaker in that event.

MR. JONAS: That would be a matter for the Speaker to decide.

THE CHAIRMAN: The gentleman is correct.

***Rescinding Time Limitation***

**§ 7.12 Whether the House can rescind a time limitation im-**

**posed by the Committee of the Whole is a matter for the Speaker, and not the Chairman, to determine.**

On Dec. 14, 1973,<sup>(4)</sup> during consideration of H.R. 11450, the Emergency Energy Act, Chairman Richard Bolling, of Missouri, declined to answer an inquiry regarding an extension of time for consideration of the bill on the ground that such an inquiry should be addressed to the Speaker.

MR. [JOHN H.] BUCHANAN [Jr., of Alabama]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. BUCHANAN: Mr. Chairman, should a motion be offered that the Committee do now rise, and that motion would be accepted by the Committee, would it be possible then in the House for time to be extended or for the earlier motion limiting time to be rescinded?

THE CHAIRMAN: The Chair will state to the gentleman from Alabama that the gentleman is asking the Chairman of the Committee of the Whole to rule on a matter that would come before the Speaker of the House of Representatives.

MR. BUCHANAN: The Chairman cannot answer that according to the rules of the House?

THE CHAIRMAN: The Chair will state that the Chair is not in a position to answer for the Speaker.

3. 112 CONG. REC. 10895, 89th Cong. 2d Sess.

4. 119 CONG. REC. 41731, 93d Cong. 1st Sess.

***Vote Required in House***

**§ 7.13** The question of the vote required to adopt a resolution in the House is not properly addressed to the Chairman of the Committee of the Whole as a parliamentary inquiry but should be addressed to the Speaker in the House.

On June 13, 1946,<sup>(5)</sup> during consideration of H.R. 6777, the government corporations appropriation bill, 1947, Chairman William M. Whittington, of Mississippi, declined to rule whether a two-thirds vote would be required in the House to adopt a special rule.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. CASE of South Dakota: Would it be possible to get a rule making in order a paragraph which had previously been stricken from the bill on a point of order, unless that rule was adopted by a two-thirds vote?

THE CHAIRMAN: The Chair may say to the gentleman that that inquiry is not one that can be answered in the Committee of the Whole. It is a matter that would have to be determined by the Speaker of the House.

5. 92 CONG. REC. 6877, 6878, 79th Cong. 2d Sess.

***Time To Resume Unfinished Business***

**§ 7.14** The question as to when the Committee of the Whole will continue the consideration of a pending bill after rising for the day is for the Speaker and the House to decide and not the Chairman of the Committee of the Whole.

On Apr. 26, 1948,<sup>(6)</sup> during consideration of H.R. 2245, to repeal the tax on oleomargarine, Chairman Leslie C. Arends, of Illinois, declined to rule on when the Committee would continue consideration of the bill after rising for the day.

MR. AUGUST H. ANDRESEN [of Minnesota]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. AUGUST H. ANDRESEN: Mr. Chairman, I understand that the Committee will rise at 4 o'clock. It is also my understanding of the rules that this Committee should meet tomorrow in order to have continuous consideration of the pending legislation.

I would like to have a ruling of the Chair as to whether or not the rules provide that a day may intervene so that this legislation may be taken up on Wednesday.

THE CHAIRMAN: The Chair may say that is a matter for the Speaker of the

6. 94 CONG. REC. 4873, 80th Cong. 2d Sess.

House and the House itself to determine. It is not something within the jurisdiction of the Chair to decide.

**§ 7.15 A parliamentary inquiry as to whether a bill under consideration on Calendar Wednesday would be the unfinished business of the Committee of the Whole on the next day if the House adjourns is not a question for the Chairman to decide.**

On Feb. 22, 1950, Calendar Wednesday,<sup>(7)</sup> during consideration of H.R. 4453, the Federal Fair Employment Practice Act, Chairman Francis E. Walter, of Pennsylvania, declined to answer a parliamentary inquiry as to whether the bill would be the unfinished business of the Committee of the Whole on the next day if the House adjourned.

THE SPEAKER:<sup>(8)</sup> The House automatically resolves itself into the Committee of the Whole House on the State of the Union. The gentleman from Pennsylvania [Mr. Walter] will take the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4453) to prohibit discrimination in employment because of race, color, religion, or national origin, with Mr. Walter in the chair.

7. 96 CONG. REC. 2161, 2162, 81st Cong. 2d Sess.

8. Sam Rayburn (Tex.).

The Clerk read the title of the bill.

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. FULTON: If the House were now to adjourn would the first order of business tomorrow be the consideration of this bill by the Committee of the Whole?

THE CHAIRMAN: The parliamentary inquiry is directed to a state of facts that does not exist. The House has resolved itself into the Committee of the Whole, and the Committee of the Whole cannot adjourn.

The Clerk will read the bill.

***Sufficiency or Legal Effect of Committee Report***

**§ 7.16 The Chair does not pass on the legal effect of funding limitations included in a committee report on an appropriation bill but not written into the wording of the bill; that matter is decided by the Committee of the Whole in considering the bill for amendment.**

On Apr. 14, 1955,<sup>(9)</sup> during consideration of H.R. 5502, the Departments of State, Justice, Judiciary, and related agencies appropriations bill of 1956, Chairman Jere Cooper, of Tennessee, de-

9. 101 CONG. REC. 4463, 4464, 84th Cong. 1st Sess.

clined to respond to a parliamentary inquiry as to whether limitations appearing in a committee report but not in the bill are binding.

MR. [ROBERT C.] WILSON of California: I have a question relative to the United States Information Agency as it affects the report of the committee. As printed I notice there are several limitations written into the report. For instance, not to exceed \$300,000 is provided for the "presentation" program; not to exceed \$200,000 is provided for exhibits for which \$334,000 was requested, and other limitations of that type.

I am wondering if the fact that these limitations appear in the report make them actual limitations in law. I notice they are not mentioned in the bill itself, and I wonder if the committee regards them as binding on the agency, because there are many serious limitations, particularly in regard to exhibits, for example. I would just like to hear the opinion of the chairman.

MR. [John J.] ROONEY [of New York]: I may say to the gentleman from California that it is expected that they will be the law; and that they are binding. The fact that they have not been inserted in the bill is not important. They represent the considered judgment of the committee and we expect the language of the report to be followed.

MR. WILSON of California: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. WILSON of California: Are limitations written in a committee report

such as this, but not written into the wording of the legislation, binding?

THE CHAIRMAN: That is not a parliamentary inquiry. That is a matter to be settled by the members of the Committee of the Whole.

### **§ 7.17 The Chair does not rule on the sufficiency or legal effect of committee reports.**

On Apr. 14, 1955,<sup>(10)</sup> during consideration of H.R. 5502, the Departments of State, Justice, Judiciary, and related agencies appropriations bill of 1956, Chairman Jere Cooper, of Tennessee, stated that the Chair would not pass on the sufficiency of the committee report on the bill.

MR. [ROBERT C.] WILSON of California: I have a question relative to the United States Information Agency as it affects the report of the committee. As printed I notice there are several limitations written into the report. For instance, not to exceed \$300,000 is provided for the "presentation" program; not to exceed \$200,000 is provided for exhibits for which \$334,000 was requested, and other limitations of that type.

I am wondering if the fact that these limitations appear in the report make them actual limitations in law. I notice they are not mentioned in the bill itself, and I wonder if the committee regards them as binding on the agency, because there are many serious limitations, particularly in regard to exhib-

10. 101 CONG. REC. 4463, 4464, 84th Cong. 1st Sess.

its, for example. I would just like to hear the opinion of the Chairman. . . .

MR. WILSON of California: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it. . . .

MR. WILSON of California: I merely wanted [to ask about a report] for my own understanding and information, for I am fairly new here. It seems to me rather unusual to consider matter written into a report of the same binding effect on an administrator as though written into the law itself.

THE CHAIRMAN: It is not the prerogative of the Chair to pass upon the sufficiency or insufficiency of a committee report.

MR. WILSON of California: I am not really asking whether the report itself is sufficient or insufficient; I am asking whether the legislation we are voting on here is sufficient or insufficient.

The committee report on the appropriation bill now before the House includes recommendations on maximum amounts to be available to the USIA for certain specified functions. The recommendations appear to be intended as limitations. No comparable limitations are contained in the bill appropriating funds to USIA. . . .

Legislation can be enacted only by the joint action of the House and Senate and the President. Legislation cannot be unilaterally enacted by a committee of the Congress. Naturally the committee recommendations are to be given due weight by the executive agencies in the administration of the programs concerned. These recommendations are the result of the arduous labors of conscientious legisla-

tors. They are not to be lightly ignored or disregarded by the executive arm of the Government. They are not, however, legislative mandates having the force of law.

I am firmly of the above view and understand that my view is shared by the General Counsel of the General Accounting Office.

THE CHAIRMAN: The gentleman might address that inquiry to the chairman of the subcommittee.

MR. [JOHN J.] ROONEY [of New York]: Mr. Chairman, will the gentleman yield?

MR. [FREDERIC R.] COUDERT [Jr., of New York]: I yield.

MR. ROONEY: Let me say once again that the language in the report with regard to these limitations is a matter of custom which has been followed over many years, and it is expected that the USIA and the departments involved in this bill will strictly follow the language of the report unless the will of the House demonstrates otherwise by adopting amendments to the bill.

### *Sitting in Executive Session*

**§ 7.18 The House and not the Committee of the Whole decides whether the Committee may sit in executive session; a parliamentary inquiry of this sort should be addressed to the Speaker and not the Chairman of the Committee of the Whole.**

On May 9, 1950,<sup>(11)</sup> during consideration of H.R. 7786, the gen-

11. 96 CONG. REC. 6746, 81st Cong. 2d Sess.

eral appropriations bill of 1951, Chairman Mike Mansfield, of Montana, stated that the House, not the Committee of the Whole, determines whether the Committee may sit in executive session, and he declined to respond to a parliamentary inquiry regarding that matter on the ground that such an inquiry should be addressed to the Speaker.

MR. [ERRETT P.] SCRIVNER [of Kansas]: Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I would submit a parliamentary inquiry as to whether or not an executive session could be held and, if so, what procedure would be necessary to bring that to pass before we are asked to vote upon the \$350,000,000 additional.

THE CHAIRMAN: The Chair will state to the gentleman from Kansas that the Committee of the Whole would have no control over that. That would be a matter for the House itself to decide.

MR. SCRIVNER: I understand that, of course, and raised the question for information of the Members. Since it is a matter for the House to determine, as a further parliamentary inquiry, what would be the method followed to take that action?

THE CHAIRMAN: The Chair will say to the gentleman from Kansas that a parliamentary inquiry of that sort should be addressed to the Speaker rather than the Chairman.

### ***Interpretation of Senate Procedure***

#### **§ 7.19 The Chair does not interpret the rules or procedures of the Senate.**

On June 6, 1961,<sup>(12)</sup> during consideration of H.R. 7444, making appropriations for the Department of Agriculture for fiscal year 1962, the Chairman declined to interpret Senate rules or procedure.

MR. [WILLIAM H.] AVERY [of Kansas]: Mr. Chairman, may I submit another parliamentary inquiry?

THE CHAIRMAN:<sup>(13)</sup> The gentleman will state it.

MR. AVERY: Mr. Chairman, the language of the amendment now pending at the desk is the identical language that came into conference from the other body following action of the House, and my amendment in 1959 became incorporated, I believe, in the conference report. Does that in any way change the legislative history of the amendment?

THE CHAIRMAN: The Chair may advise the gentleman that nothing is pending before the Chair, but by way of observation, the language the gentleman speaks of was apparently added by the other body. The present occupant of the Chair would not attempt to state or to interpret the rules or procedure of the other body.

MR. AVERY: I thank the Chairman.

### **§ 8.—Rulings Relating to Amendments**

The Chairman of the Committee of the Whole is guided by the

12. 107 CONG. REC. 9626, 87th Cong. 1st Sess.

13. Paul J. Kilday (Tex.).

precedents in determining whether a bill being considered in the Committee shall be read for amendment by sections or paragraphs. Generally, appropriation bills are read for amendment by paragraph and other bills are read for amendment by section, in the absence of a special rule providing otherwise.<sup>(14)</sup> Nonetheless, the Chairman's decision on this matter has been overruled on occasion.<sup>(15)</sup> Although it is ordinarily not in order to return to a section or paragraph that has been passed<sup>(16)</sup> (the Chairman may direct a return to a section when, by error, no action had been taken on a pending amendment).<sup>(17)</sup>

### ***Application or Effect of Proposed Amendment***

#### **§ 8.1 The Chairman does ordinarily not construe the effect of an amendment.**

14. Note to Rule XXIII clause 5, *House Rules and Manual* §872 (1979); 8 Cannon's Precedents §§2341–2346.  
See Ch. 27, *infra*, for other precedents relating to amendments.
15. Note to Rule XXIII clause 5, *House Rules and Manual* §872 (1979); 8 Cannon's Precedents §2347.
16. Rule XXIII clause 5, *House Rules and Manual* §872 (1979); 4 Hinds' Precedents §§4742, 4743.
17. Rule XXIII clause 5, *House Rules and Manual* §872 (1979); 4 Hinds' Precedents §4750.

On Apr. 26, 1966,<sup>(18)</sup> during consideration of an amendment to H.R. 14596, making appropriations for the Department of Agriculture for fiscal year 1967, Chairman Eugene J. Keogh, of New York, declined to construe the effect of an amendment except to respond to a point of order alleging that it was legislation on an appropriation bill.

MR. [PAUL] FINDLEY [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Findley: On page 35, strike all language on lines 11 and 12, and insert the following:

"No funds appropriated by the Act shall be used to formulate or administer a Federal crop insurance program for the current fiscal year that does not meet its administrative and operating expenses from premium income: *Provided*," . . .

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Illinois on the ground that it is legislation on an appropriation bill.

May I say that the gentleman from Illinois gave the matter away, in my opinion, when he said that the purpose of his amendment was to set premium rates that the Government would charge. I think that shows clearly what is involved. This amendment provides that no funds shall be used to administer this program under certain condi-

18. 112 CONG. REC. 8968, 8969, 89th Cong. 2d Sess.

tions. The program now in existence is based on contracts to which the Government is a party. For us in this bill to try to prohibit the handling of existing contracts on the part of the Government would clearly be legislation. It not only would be legislation but it would interfere with meeting obligations under existing contracts and commitments on the part of the Government.

For that reason, Mr. Chairman, I submit that the point of order should be sustained.

THE CHAIRMAN: Does the gentleman from Illinois desire to be heard on the point of order?

MR. FINDLEY: Yes, Mr. Chairman.

Mr. Chairman, the amendment I have offered is clearly a limitation of funds, requiring that no funds be appropriated for the administration or formulation of programs. Therefore, on the basis of that it seems to me that the amendment is in order.

MR. WHITTEN: Mr. Chairman, if I may make one observation, the amendment has to do with setting premiums and is quite clearly an affirmative action.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Illinois [Mr. Findley] has offered an amendment at page 35, striking out all language on lines 11 and 12 and the amendment would add a new paragraph; to which amendment the gentleman from Mississippi has made a point of order on the ground that it is legislation on an appropriation act. . . .

It might be said that the effect of any proposed amendment is truly not within the competence of the Chair.

But a reading of this language indicates to this occupant of the chair that there is here sought an express limitation on the funds appropriated by the pending bill and the Chair, therefore, overrules the point of order.

**§ 8.2 The Chair may construe the purpose of an amendment to determine whether it is a limitation on an appropriation and therefore in order, but may refuse to rule on its application or construction with respect to a provision in the bill.**

On May 15, 1957,<sup>(19)</sup> during consideration of H.R. 7441, making appropriations for the Department of Agriculture, Chairman Paul J. Kilday, of Texas, declined to pass on the construction of a proposed amendment after a point of order was made alleging that it was surplusage and ineffective because of a previously adopted amendment.

The Clerk read as follows:

ACREAGE RESERVE, SOIL BANK

For necessary expenses to carry out an acreage reserve program in accordance with the provisions of subtitles A and C of the Soil Bank Act (7 U.S.C. 1821-1824 and 1802-1814), \$600,000,000: *Provided*, That no part of this appropriation shall be used to formulate and administer an acreage reserve program which

19. 103 CONG. REC. 7023, 7033, 7034, 85th Cong. 1st Sess.

would result in total compensation being paid to producers in excess of \$500,000,000 with respect to the 1958 crops.

MR. [BURR P.] HARRISON of Virginia: I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Harrison of Virginia: On page 21, strike out all following the word "program" in line 2 and strike out all of line 3. . . .

So the amendment was agreed to.

MR. [HENRY S.] REUSS [of Wisconsin]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Reuss: On page 21, line 4, change the period to a comma and add the following: "or in total compensation being paid to any one producer in excess of \$5,000 with respect to the 1958 crops."

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I reserve a point of order against the amendment. . . .

Mr. Chairman, the committee having stricken out or prohibited the use of any money for any 1958 program, now to provide that money shall be limited to \$5,000 per participant where no money can be used for the 1958 program is the question. If it is in order, Mr. Chairman, I should like to renew my point of order that to put a limitation on the amount to be given to a participant, when the committee has just adopted an amendment prohibiting the use of any money, strikes me as being surplusage and subject to a point of order. . . .

THE CHAIRMAN: The Chair is ready to rule on the point of order.

First, the Chair wants to call attention to the fact that the amendment offered by the gentleman from Virginia [Mr. Harrison] did not strike out all of the proviso. It struck out only that portion of the proviso on page 21, line 2, beginning after the word "program" to and including "\$500,000,000" in line 3. So that the proviso now reads:

*Provided*, That no part of this appropriation shall be used to formulate and administer an acreage reserve program with respect to the 1958 crops.

The amendment offered by the gentleman from Wisconsin [Mr. Reuss] strikes out the period, inserts a comma, and adds the language "or in total compensation being paid to any one producer in excess of \$5,000 with respect to the 1958 crops."

While it may be because of the amendment offered by the gentleman from Virginia having been adopted that the amendment offered by the gentleman from Wisconsin would be ineffective, still the Chair believes, it being a limitation upon the purpose for which the funds are appropriated, that it is in order and that the point of order should be overruled.

MR. WHITTEN: Mr. Chairman, do I understand then that it is the judgment of the Chair that it would not apply back to the \$600 million?

THE CHAIRMAN: The Chair is not going to pass on the construction of the language whether this amendment is adopted or not.

The point of order is overruled.

### **§ 8.3 The Chairman does not rule on the effect of amendments on other provisions in**

**a bill, or their consistency with provisions of the bill already passed in the reading for amendment.**

On June 28, 1967,<sup>(1)</sup> during consideration of amendments to H.R. 10340, authorizing appropriations for the National Aeronautics and Space Administration, Chairman John J. Flynt, Jr., of Georgia, on two occasions overruled points of order on the ground that the Chairman does not rule on the consistency of amendments or their effect on other provisions of a bill.

The bill contained an overall appropriation (on page 1, line 5, as mentioned below) which was to be divided among various specified projects, including an amount for sustaining university programs (on page 2, line 22, as mentioned below). The "consistency problem", as raised by Mr. Joseph E. Karth, of Minnesota, was that the total figure for the overall appropriation would not equal the sum of all the appropriations for the various specified projects if an amendment changed only the figure for one of the specified programs. The proceedings were as follows:

MR. [RICHARD L.] ROUDEBUSH [of Indiana]: Mr. Chairman, I offer an amendment.

1. 113 CONG. REC. 17755, 90th Cong. 1st Sess.

The Clerk read as follows:

Amendment offered by Mr. Roudebush: On page 2, line 22, strike the amount "\$30 million" and insert in lieu thereof the amount "\$20 million".

THE CHAIRMAN: The gentleman from Indiana [Mr. Roudebush] is recognized for 5 minutes in support of his amendment.

MR. KARTH: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. KARTH: Mr. Chairman, now that the amendment is here, I again renew my request for a ruling as to whether or not the amendment that the gentleman proposes to make on page 2 can be legitimately made without changing his figure on page 1. I raise that point of order, Mr. Chairman.

Mr. Chairman, I make the point of order.

THE CHAIRMAN: Does the gentleman make a point of order to the amendment offered by the gentleman from Indiana?

MR. KARTH: I do, Mr. Chairman.

THE CHAIRMAN: The gentleman will state this point of order.

MR. KARTH: My point of order is, If the gentleman proceeds with his amendment as it has been read by the Clerk, reducing the amount on line 22 by \$10 million and he does not change the total on line 5 of page 1, it seems to me that the amendment is not in proper order.

THE CHAIRMAN: Will the gentleman state his point of order in a form on which the Chair can rule?

MR. KARTH: The point of order I raise, Mr. Chairman, is against the amendment.

THE CHAIRMAN: On what basis?

MR. KARTH: On the basis that it is not a properly drawn amendment, that it does not affect the bill as it otherwise would if it were proper.

THE CHAIRMAN: The Chair overrules the point of order. The Chair does not make rulings on the consistency of language in amendments offered to the bill.

The gentleman from Indiana [Mr. Roudebush] is recognized for 5 minutes.

MR. [ROBERT C.] ECKHARDT [of Texas]: Mr. Chairman——

THE CHAIRMAN: Does the gentleman from Indiana yield to the gentleman from Texas?

MR. ROUDEBUSH: No, Mr. Chairman. I should like to make my remarks.

MR. ECKHARDT: A point of order, Mr. Chairman.

THE CHAIRMAN: The gentleman will state his point of order.

MR. ECKHARDT: Mr. Chairman, I make the point of order that the amendment offered has the effect of changing the figure on page 1, line 5, by reducing it \$10 million, and, therefore, affects line 5, which has already been amended at a previous time.

THE CHAIRMAN: The Chair is ready to rule on the point of order.

The Chair will state, that the point of order made by the gentleman from Texas is substantially the same point of order made by the gentleman from Minnesota. The Chair does not rule on the question of whether an amendment to one point would amend another point in the bill.

The present amendment offered by the gentleman from Indiana relates to line 22 on page 2 and has no effect at this time on line 5, page 1.

The Chair, therefore, overrules the point of order of the gentleman from Texas.

The Chair recognizes the gentleman from Indiana [Mr. Roudebush] in support of his amendment.

### *Interpretation of Amendment*

#### **§ 8.4 The meaning of an amendment that is technically in order is not a matter to be passed on by the Chairman.**

On Oct. 12, 1966,<sup>(2)</sup> during consideration of H.R. 51, the Indiana Dunes Lakeshore bill, Chairman John J. McFall, of California, declined to interpret an amendment.

MR. [J. EDWARD] ROUSH [of Indiana]: Mr. Chairman, I offer an amendment to the substitute amendment offered by the gentleman from Arizona [Mr. Udall].

The Clerk read as follows:

Amendment to the substitute amendment offered by Mr. Roush: Page 2, line 6, strike out the period at the end of Mr. Udall's amendment and add the following: "excluding therefrom the one mile of lakefront known as Ogden Dunes Beach and adding thereto the area known as the Burns Bog Unit as shown on a map with the same title, dated January 1965 and bearing the number 'NL-ID-7001A' which map is also on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior."

2. 112 CONG. REC. 26205, 89th Cong. 2d Sess.

THE CHAIRMAN: The Chair recognizes the gentleman from Indiana [Mr. Roush].

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Chairman, will the gentleman yield for the purpose of propounding a parliamentary inquiry?

MR. ROUSH: I yield to the gentleman from Indiana.

THE CHAIRMAN: The gentleman from Indiana will state the parliamentary inquiry.

MR. HALLECK: Mr. Chairman, in view of the fact that all of the units of this proposed national park are fixed by reference to a map, is it in order to offer language in indefinite terms that would undertake to alter that?

The gentleman from Arizona offered an amendment which referred to another map, which is a matter of record.

I do not know and I do not know whether anybody else knows just what is meant when reference is made to Ogden Dunes or Burns Bog units.

THE CHAIRMAN: The Chair would reply that the Chair is not in a position to construe the amendment. The amendment technically is in order and it is up to the Member offering an amendment to construe the amendment for the benefit of the Members.

### ***Ambiguity of Amendment***

#### **§ 8.5 The Chair does not rule on whether an amendment is ambiguous.**

On July 5, 1956,<sup>(3)</sup> during consideration of H.R. 7535, author-

3. 102 CONG. REC. 11873, 11875, 84th Cong. 2d Sess.

izing federal assistance to the states and local communities in financing an expanded program of school construction to eliminate a national shortage of classrooms, Chairman Francis E. Walter, of Pennsylvania, stated the practice of the Chair in ruling on the ambiguity of an amendment.

MR. [ADAM C.] POWELL [Jr., of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Powell: On page 26, after line 12, insert a new title IV:

"That there shall be no Federal funds allotted or transferred to any State which fails to comply with the provisions of the Supreme Court."

After debate, an amendment to the amendment was offered as follows:

Amendment offered by Mr. [James] Roosevelt [of California] to the Powell amendment: Strike the word "provisions" and insert the word "decisions."

MR. [ROSS] BASS of Tennessee: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. BASS of Tennessee: I make the point of order that the amendment is not germane to the bill.

THE CHAIRMAN: It is certainly germane to the amendment offered by the gentleman from New York to substitute the word "decisions" for the word "provisions." The Chair so rules.

MR. BASS of Tennessee: Mr. Chairman, a further point of order.

THE CHAIRMAN: The gentleman will state it.

MR. BASS of Tennessee: I make the point of order that the word "provisions" is ambiguous and has no meaning whatever and would make the amendment not germane.

THE CHAIRMAN: The Chair does not rule on the question of ambiguity. It is a question of germaneness solely, and the Chair has ruled that the amendment is germane.

### ***Consistency of Amendments***

#### **§ 8.6 The Chairman does not rule on the consistency of amendments.**

On Aug. 16, 1961,<sup>(4)</sup> the Committee of the Whole by teller vote of 197 ayes, 185 noes, agreed to the following substitute amendment to H.R. 8400, the Mutual Security Act of 1961, authorizing appropriations to the President:

Amendment offered by Mr. [Dalip S.] Saund, of California, as a substitute for the amendment offered by Mr. Morgan, of Pennsylvania: On page 7, strike out line 13 and all that follows down through line 7 on page 9, and insert in lieu thereof the following:

Sec. 202. Capitalization.—(a) There is hereby authorized to be appropriated to the President not to exceed \$1,200,000,000 for use beginning in the fiscal year 1962 to carry out the purposes of this title, which sums shall remain available until expended.

The following day, Aug. 17, 1961,<sup>(5)</sup> the Committee again met,

4. 107 CONG. REC. 16060, 16073, 87th Cong. 1st Sess.

5. *Id.* at p. 16188. See 119 CONG. REC. 25828, 93d Cong. 1st Sess., July 25,

with Wilbur D. Mills, of Arkansas, in the Chair, to consider other amendments to the same bill:

THE CHAIRMAN: When the Committee rose on yesterday the Clerk had read through section 202 ending in line 13, page 3 of the bill.

If there are no further amendments to section 202, the Clerk will read.

MR. [LAURENCE] CURTIS of Massachusetts: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Curtis of Massachusetts: In section 202 add a new subsection to be numbered (b), and re-letter the other subsections accordingly, to read as follows:

"(b) There is hereby authorized to be appropriated to the President without fiscal year limitation to carry out the purposes of this title not to exceed \$1,000,000,000 for the fiscal year 1963, and not to exceed \$1,000,000,000 for the fiscal year 1964."

MR. [HOWARD W.] SMITH of Virginia: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN: The gentleman will state his point of order.

MR. SMITH of Virginia: Mr. Chairman, in order to see if we can find out where we are at, I would like to know first what becomes of the amendment that was adopted on yesterday. It is in the bill. There is no provision in this amendment which strikes it out. Does

1973; 103 CONG. REC. 13501, 85th Cong. 1st Sess., Aug. 2, 1957; and 95 CONG. REC. 11994, 81st Cong. 1st Sess., Aug. 22, 1949, for other rulings that the Chairman does not rule on the consistency of amendments.

it remain in the bill; and if it does not remain in the bill, how does it get out?

THE CHAIRMAN: That provision adopted yesterday remains in the bill; and, as the Chair understands the situation, it would not be affected by this amendment. This amendment would be in addition to that which was acted on yesterday.

MR. SMITH of Virginia: Mr. Chairman, the two amendments are in direct conflict. We have adopted one amendment which says that this shall be for 1 year by direct appropriation, then we adopt another amendment, both of which the Chairman informs us will be in the bill. In the other amendment we made it a 3- or 4-year proposition and cut the appropriation. . . .

MR. [E. ROSS] ADAIR [of Indiana]: Mr. Chairman, I should like to urge a further point of order against the proposed amendment, first, on the basis that the subject matter of that amendment was acted upon yesterday and therefore it is not appropriate to reopen the matter at this time. Second, if I understood the place in the bill to which it is offered, since we already have a section (b) in there, it would be section (c), and I urge the Chair that it is not germane at that point. . . .

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from Massachusetts [Mr. Curtis] offers an amendment to section 202 of the bill to which the gentleman from Virginia makes a point of order.

Permit the Chair to say that it is not the province of the Chair to rule on whether matters are consistent or not. That is within the judgment of the committee. The amendment adopted

yesterday included the deletion of paragraph (b) of section 202 as a part of the amendment. So, the Chair will say that there is at the moment no paragraph (b) in the bill. This is new material. It is germane to the subject of section 202, and the Chair overrules the point of order.

### **§ 8.7 The Chairman does not rule on the consistency of a proposed amendment with another amendment already adopted.**

On July 25, 1973,<sup>(6)</sup> during consideration of H. R. 8480, the Impoundment Control Act, Chairman Dante B. Fascell, of Florida, declined to rule that a proposed amendment was inconsistent with an amendment which had already been adopted.

MR. [JOHN B.] ANDERSON of Illinois: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Anderson of Illinois: On page 11, after line 10, add the following new section:

"Sec. 109. The foregoing provisions of this title shall take effect on January 1, 1974."

MR. [RICHARD] BOLLING [of Missouri]: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN: The gentleman will state his point of order.

6. 119 CONG. REC. 25828, 93d Cong. 1st Sess. See 119 CONG. REC. 41306, 41308, 41688, 41689, 93d Cong. 1st Sess., Dec. 13, and 14, 1973, respectively, for a similar ruling.

Mr. BOLLING: The point of order is that the amendment is not germane.

Mr. ANDERSON of Illinois: Mr. Chairman, if I may be heard on the point of order, I think perhaps the distinguished gentleman from Missouri and my colleague on the Committee on Rules has not correctly understood the amendment, because it is not the amendment that says that the foregoing provisions of this title; namely, title I, shall take effect on the effective date of this legislation which improves congressional control over budgetary outlay and the receipt totals in a comprehensive manner but merely fixes a date and says that the provisions of title I shall not become effective until January 1, 1974.

Mr. BOLLING: Mr. Chairman, then this amendment should have been offered at a different place as an amendment to the Heinz amendment, or else it is in effect a redundancy.

Mr. ANDERSON of Illinois: Mr. Chairman, if I may be heard further on the point of order, as I understand the Heinz amendment it has the effect of making it merely a 1-year bill. In other words, the antiimpoundment provisions would expire at the end of the current fiscal year. My amendment says that title I, the antiimpoundment provision, does not commence, does not become effective as a matter of law until January 1, 1974.

THE CHAIRMAN: The Chair is prepared to rule.

The amendment offered by the gentleman from Illinois (Mr. Anderson) provides that title I shall take effect on January 1, 1974. The amendment is objected to because of inconsistency and also because it is not germane.

The Chair cannot rule on the consistency of the amendment offered by the gentleman from Illinois (Mr. Anderson) but the amendment certainly fixes a date certain which is not an unrelated contingency. The amendment is germane and therefore the Chair overrules the point of order.

**§§8.8 While an amendment may not change an amendment already agreed to, an amendment that involves similar but not identical subjects to follow the adopted amendment is in order; and the Chair will not rule on the consistency of those amendments.**

On Dec. 14, 1973,<sup>(7)</sup> during consideration of H.R. 11450, the Energy Emergency Act, Chairman Richard Bolling, of Missouri, overruled points of order in part on the ground that the Chairman does not rule on the consistency of amendments.

Amendment offered by Mr. [William R.] Roy [of Kansas] to the amendment in the nature of a substitute offered by Mr. Staggers: Page 36, line 23, strike out the quotation marks.

Page 36, insert after line 23 the following:

“(9)(A) This subsection shall not apply to the first sale of crude oil or petroleum condensates produced from any lease within the United States by

7. 119 CONG. REC. 41725-30, 41740, 93d Cong. 1st Sess.

a seller (i) who produced such oil or condensate, (ii) who (together with all persons who control, are controlled by or who are under common control with, such seller), produces in the aggregate less than 25,000 barrels per day of crude oil and petroleum condensates, averaged annually, and (iii) who is not a refiner or marketer or distributor of refined petroleum products (or a person who controls, is controlled by, or is under common control with such a refiner, marketer, or distributor).

“(B) For purposes of subparagraph (A)—

“(i) a person produces crude oil or petroleum condensates only if he has an interest in the production thereof which permits him to take his production (or share thereof) in kind, and

“(ii) the term ‘control’ means control by ownership.” . . .

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Kansas (Mr. Roy) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers). . . .

The vote was taken by electronic device, and there were—ayes 189, noes 194, not voting 49, as follows: . . .

Amendment offered by Mr. [Joe] Skubitz [of Kansas] to the amendment in the nature of a substitute offered by Mr. Staggers: Page 36, line 23, strike out the quotation marks.

Page 36, insert after line 23 the following:

“(9) This subsection shall not apply to the first sale of crude oil described in subsection (e)(2) of this section (relating to stripper wells).” . . .

THE CHAIRMAN: The question is on the amendment offered by the gen-

tleman from Kansas (Mr. Skubitz) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to. . . .

MR. [ROBERT D.] PRICE of Texas: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Price of Texas to the amendment in the nature of a substitute offered by Mr. Staggers: Page 36, line 23, strike out the quotation marks.

Page 36, insert after line 23 the following:

“(9)(A) This subsection shall not apply to the first sale of crude oil or petroleum condensates produced from any lease within the United States by a seller (i) who produced such oil or condensate, (ii) who (together with all persons who control, are controlled by or who are under common control with, such seller), produces in the aggregate less than 5,000 barrels per day of crude oil and petroleum condensates, averaged annually, and (iii) who is not a refiner or marketer or distributor of refined petroleum products (or a person who controls, is controlled by, or is under common control with such a refiner, marketer, or distributor).

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state his point of order.

MR. CONTE: Mr. Chairman, my point of order is that we have already considered the amendment before today. It was the Roy amendment, and therefore a point of order should lie against it.

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I would like to be heard also on the point of order.

THE CHAIRMAN: The Chair will state that as the Chair understands the amendment the figure has been changed, therefore it is not the same amendment since the figure has been changed.

MR. DINGELL: May I be heard on the point of order?

MR. [ROBERT C.] ECKHARDT [of Texas]: Mr. Chairman, I would like to speak against the point of order.

THE CHAIRMAN: May the Chair suggest that the Clerk complete the reading of the amendment, and then I will recognize the gentleman on his point of order.

The Clerk read the remainder of the amendment, as follows:

(B) For purposes of subparagraph (A)—

(i) a person produces crude oil or petroleum condensates only if he has an interest in the production thereof which permits him to take his production (or share thereof) in kind, and

(ii) the term “control” means control by ownership.

THE CHAIRMAN: The gentleman from Massachusetts will be heard on his point of order.

MR. CONTE: Mr. Chairman, I insist on the point of order even though the amendment changes the figures. The amendment is now in the third degree, and therefore the point of order should be upheld.

MR. DINGELL: Mr. Chairman, I make a point of order on the grounds that this is again bringing before the Committee a portion of the bill which has already been amended. As the Chair

recalls, we adopted the Skubitz amendment, which dealt with the same subject matter, and at the same place, and I submit, regardless of the point of order raised by the gentleman from Massachusetts (Mr. Conte) that this is a violation of the Rules of the House as an attempt to redo action earlier taken by the Committee with regard to the Skubitz amendment, which was likewise dealing with the limitation on the coverage of the particular section to include coverage of people who operate stripper wells.

MR. ECKHARDT: Mr. Chairman, I speak against the point of order. The Skubitz amendment dealt in an entirely different subject matter. The Skubitz amendment dealt with oil produced by well, not oil produced by producer, and provided that in those cases of wells producing less than, as I recall, 10 barrels per day, these should be exempted.

The amendment here is not dealing with stripper wells. It has nothing to do with wells. It has to do with the size of the producers. Therefore, this subject matter has not been previously covered. This does not change the Skubitz amendment at all, and it deals with a different subject.

Of course, the point of order with respect to the proposition that this is in the third degree is frivolous, because this is introduced as an additional amendment, and the amendment is different materially from the 25,000 barrels.

MR. DINGELL: Mr. Chairman, I again note, with the assistance of the Chair, that the Skubitz amendment and the amendment now before us appear at precisely the same place in the bill.

MR. CHAIRMAN: For the reasons stated by the gentleman from Texas (Mr. Eckhardt) because the Chair does not rule on the inconsistency of amendments, and the fact that the number of barrels involved in this amendment is different from that in the former amendment, the Chair overrules the points of order, and the amendment will be voted on.

***Propriety of Considering Amendment Identical to a Previously Passed Bill***

**§ 8.9 The Committee of the Whole and not the Chair decides whether it may consider an amendment consisting of the exact language agreed to in a bill previously passed by the House.**

On May 13, 1946,<sup>(8)</sup> during consideration of Senate Joint Resolution 159, to extend the Selective Training and Service Act, Chairman Alfred L. Bulwinkle, of North Carolina, stated that the Committee of the Whole, not the Chair, would decide whether an amendment to the resolution would be considered.

The Clerk read as follows:

*Resolved, etc.,* That section 16(b) of the Selective Training and Service Act of 1940, as amended, is amended by striking out "May 15, 1946" and inserting "July 1, 1946."

8. 92 CONG. REC. 4957, 79th Cong. 2d Sess.

MR. [DEWEY] SHORT [of Missouri]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Short: Strike out all after the enacting clause of Senate Joint Resolution 159 and insert the following:

"That so much of the first sentence of section 3(a) of the Selective Training and Service Act of 1940, as amended, as precedes the first proviso is amended to read as follows:

"Sec. 3. (a) Except as otherwise provided in this act, every male citizen of the United States, and every other male person residing in the United States, who is between the ages of 20 and 30, at the time fixed for his registration, or who attains the age of 20 after having been required to register pursuant to section 2 of this act, shall be liable for training and service in the land or naval forces of the United States. . . ."

MR. [WALTER G.] ANDREWS of New York: Mr. Chairman, I make a point of order against the amendment just offered by the gentleman from Missouri on the ground that the exact language in another bill has been acted on favorably by the House.

MR. CHAIRMAN: The Chair states to the gentleman from New York [Mr. Andrews] that that is a matter for the committee to pass on, not the Chairman. The Chair overrules the point of order.

***Constitutionality of Proposed Amendment***

**§ 8.10 The Chairman does not rule on the constitutionality of proposed amendments.**

On Aug. 19, 1965,<sup>(9)</sup> during consideration of an amendment to H.R. 9811, the Food and Agriculture Act of 1965, Chairman Oren Harris, of Arkansas, overruled a point of order that an amendment was unconstitutional.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Whitten: Page 14 following the word "follows" in line 15 add the following: "For such period as the Secretary of Agriculture shall carry out the provisions of the Export Sales Act of 1956 (7 U.S.C. 1853) the following changes shall be made in the Agricultural Adjustment Act of 1938, as amended." . . .

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, may I state my point of order?

MR. CHAIRMAN: The gentleman will state his point of order.

MR. COOLEY: Mr. Speaker, I make a point of order against the amendment not because of germaneness, but because it is an unconstitutional and unwarranted delegation of the power of Congress to some unknown person or to some unknown agency to make the determinations contemplated by the gentleman's amendment. We have no right to delegate this authority to any other person. . . .

MR. CHAIRMAN: Does the gentleman from Mississippi wish to be heard on the point of order?

MR. WHITTEN: Mr. Chairman, I wish to be heard on the point of order. Cer-

tainly I do not believe that there is any case where the Congress does not have a right to set the terms and conditions upon which any legislation may become affected. The law to which I referred is on the statute books and the reference made to it says that the provisions of this act shall be effective only as this other law is carried out.

Mr. Chairman, I think that certainly an objection might be in order, but I do not think there is any question insofar as the point of order is concerned. . . .

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from Mississippi offers an amendment to this title which the Clerk has reported which proposes to amend title IV, section 401.

The Chair has had occasion to observe the provisions of the law included in title VII of the United States Code to which the amendment refers, imposing the duty on the Secretary of Agriculture in carrying out certain provisions of the program.

The gentleman from North Carolina raises a point of order on the question that the amendment is unconstitutional—on the grounds of unconstitutionality. Of course that is a matter on which the Chair does not pass. That is a matter for the Committee to determine and, therefore, the Chair overrules the point of order.

### ***Authority to Allocate Debate Time on Amendments***

**§ 8.11 Where the Committee of the Whole fixes the time for closing debate on pending amendments, the Chair notes the names of the Members**

9. 111 CONG. REC. 21016, 89th Cong. 1st Sess.

**seeking recognition at the time the limitation is agreed to and divides the time equally between them.**

On Aug. 18, 1949,<sup>(10)</sup> during consideration of H.R. 5895, the Mutual Defense Assistance Act of 1949, Chairman Wilbur D. Mills, of Arkansas, noted the names of Members seeking recognition and allocated the time equally among them after the Committee of the Whole fixed the time for debate on pending amendments.

MR. [JOHN] KEE [of West Virginia]: Mr. Chairman, I ask unanimous consent that all debate on the pending amendments and all amendments thereto close in 1 hour.

THE CHAIRMAN: Is there objection to the request of the gentleman from West Virginia?

There was no objection. . . .

MR. [EARL] WILSON of Indiana: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. WILSON of Indiana: There were a certain number of us on our feet when the unanimous-consent request was propounded. After the time was limited, about twice as many people got on their feet to be recognized.

THE CHAIRMAN: The Chair is endeavoring to ascertain those Members who desire to speak, and has no disposition to violate any rights of freedom of speech.

MR. WILSON of Indiana: Further pressing my point of order, is it in order after the time is limited for others to get the time that we have reserved for ourselves? I would like to object under the present situation.

THE CHAIRMAN: Permit the Chair to answer the gentleman. If the gentleman from Indiana will ascertain and indicate to the Chair the names of the Members who were not standing at the time the unanimous-consent request was agreed to, the gentleman will render a great service to the Chair in determining how to answer the gentleman.

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. RICH: That is not the duty of the gentleman from Indiana. That is the duty of the Clerk.

THE CHAIRMAN: The gentleman from Pennsylvania and the Chair both understand that, but apparently all Members do not. The Chair is endeavoring to do the best he can to ascertain those who desire to speak under this limitation of time. Now permit the Chair to ascertain that.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. HOFFMAN of Michigan: Will the Chair, with the assistance of the Clerk, advise me how many Members have asked for time, and how much time each Member will be allotted?

THE CHAIRMAN: Each of the Members whose names appear on the list

10. 95 CONG. REC. 11760, 81st Cong. 1st Sess.

will be recognized for 2 minutes, there being 30 Members on their feet at the time and debate having been limited to 1 hour.

## § 9.—Appeals of Rulings

Debate on an appeal in the Committee of the Whole is under the five-minute rule<sup>(11)</sup> and may be closed by a motion to close debate or to rise and report.<sup>(12)</sup> In recognizing Members for debate on an appeal in the Committee of the Whole, the Chairman alternates between those favoring and those opposing the ruling.<sup>(13)</sup>

Rule I clause 4,<sup>(14)</sup> which relates to authority of the Speaker, provides that no Member shall speak

11. §9.6, *infra*; see also note to Rule I clause 4, *House Rules and Manual* §628 (1979); and 7 Cannon's Precedents §1608.

12. Rule I clause 4, *House Rules and Manual* §628 (1979); 5 Hinds' Precedents §§6947, 6950; and 8 Cannon's Precedents §3453.

In an exceptional case the Committee of the Whole rose and reported a question of order for decision of the House when an appeal was taken from a ruling of a Chairman; in that instance, the Chairman had ruled that an appeal could not be taken in the Committee. 4 Hinds' Precedents §4783.

13. 8 Cannon's Precedents §3455.

14. *House Rules and Manual* §624 (1979).

more than once on appeal, unless by permission of the House; and this provision is applicable to Members rising for that purpose in the Committee.<sup>(15)</sup>

### *Propriety of Appeal*

#### § 9.1 A decision of the Chairman of the Committee of the Whole can be appealed.

On July 19, 1956,<sup>(16)</sup> after ruling that an amendment to H.R. 627, to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States was not germane,<sup>(17)</sup> Chairman Aime J. Forand, of Rhode Island, stated his opinion as to whether a decision of the Chairman of the Com-

15. See 2 Hinds' Precedents §1313; and 5 Hinds' Precedents §6938. Although this principle has not been explicitly extended to the Committee of the Whole, it applies because of Rule XXIII clause 9, *House Rules and Manual* §877 (1979), which provides that the rules of proceeding in the House shall be observed in Committees of the Whole House so far as they may be applicable. See Jefferson's Manual, *House Rules and Manual* §340 (1979); 4 Hinds' Precedents §4737; and 8 Cannon's Precedents §2605.

16. 102 CONG. REC. 13551, 13552, 84th Cong. 2d Sess.

17. See §9.2, *infra*, for that ruling and an appeal.

mittee of the Whole was subject to appeal.<sup>(18)</sup>

Mr. [HOWARD W.] SMITH of Virginia: Mr. Chairman, I appeal from the decision of the Chair.

Mr. [BYRON G.] ROGERS of Colorado: Mr. Chairman, a point of order.

The CHAIRMAN: The gentleman will state it.

Mr. ROGERS of Colorado: Can the decision of the Chairman of the Committee of the Whole be appealed, under the rules?

The CHAIRMAN: It can.

**§ 9.2 An appeal from the decision of the Chairman of the Committee of the Whole as to the germaneness of an amendment to a bill is in order.**

On July 19, 1956,<sup>(19)</sup> during consideration of H.R. 627, to provide means of further securing and protecting the civil rights of certain persons, Chairman Aime J. Forand, of Rhode Island, stated that an appeal from a ruling of the Chairman of the Committee of the Whole as to the germaneness of an amendment to a bill was in order.

H.R. 627 contained the following provision relating to the

18. See §§9.4, 9.5, *infra*, for examples of the sustaining or overruling of decisions of Chairmen.

19. 102 CONG. REC. 13551, 13552, 84th Cong. 2d Sess.

duties of the Civil Rights Commission:

Sec. 103. (a) The Commission shall—(1) investigate the allegations that certain citizens of the United States are being deprived of their right to vote or are being subjected to unwarranted economic pressures by reason of their color, race, religion, or national origin.

An amendment to this provision was offered, as follows:

Mr. [DONALD L.] JACKSON [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jackson: On page 21 strike out lines 9 through 13 and insert the following:

“(1) investigate the allegations that certain citizens of the United States are being deprived of their right to vote or obtain employment, or are being subjected to unwarranted economic pressures, by reason of their color, race, religion, national origin, or membership or non-membership in a labor or trade organization.”

Mr. [EMANUEL] CELLER [of New York]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

Mr. CELLER: I make the point of order that the amendment is not germane. . . .

Very briefly, Mr. Chairman. I believe the amendment would change the whole complexion of the bill. The purpose of the bill is to prevent and to redress deprivation of constitutional civil rights on the grounds of race, color, religion, or national origin. All through the provisions setting forth the duties of the Commission we find the words

“race, color, religion, or national origin.” That part that the gentleman read contained the words “economic pressures” and the phrase in the bill reads: “Unwarranted economic pressures by reason of their color, race, religion, or national origin.”

For that reason, I insist on my point of order. . .

THE CHAIRMAN: The Chair is ready to rule. The gentleman from California [Mr. Jackson] has offered an amendment to the bill H.R. 627 now under consideration. The Chair has examined the amendment and also the language of the bill as referred to by the gentleman from California. The Chairman finds that the bill itself has to do with matters of economic pressure by reason of their color, race, religion, or national origin.

The amendment of the gentleman from California goes beyond that and extends to membership or nonmembership in labor or trade organizations. The Chair holds that the amendment is not germane. The point of order is sustained.

MR. [HOWARD W.] SMITH of Virginia: Mr. Chairman, I appeal from the decision of the Chair. . . .

THE CHAIRMAN: . . . The question is, Shall the decision of the Chair stand as the judgment of the Committee?

The question was taken; and the Chairman announced that the ayes had it.

So the decision of the Chairman stood as the judgment of the Committee.

### ***Issues to Be Voted on***

#### **§ 9.3 On appeal from a ruling of the Chairman of the Com-**

**mittee of the Whole on an amendment, the vote is not on the merits of the proposed amendment, but on the correctness of the decision of the Chair.**

On July 19, 1956,<sup>(20)</sup> during consideration of H.R. 627, to further secure and protect the civil rights of certain persons, an appeal was taken from a ruling by the Chair on an amendment.<sup>(1)</sup> Chairman Aime J. Forand, of Rhode Island, indicated that the vote on appeal from such a ruling is on sustaining or overruling the decision of the Chairman, not on the merits of the proposed amendment.

MR. [KENNETH B.] KEATING [of New York]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. KEATING: On this appeal from the ruling of the Chair, do I understand correctly that in voting on it we are voting not on the merits of the proposition submitted by the gentleman from California but rather on whether the Chair is correct in his ruling?

THE CHAIRMAN: That is correct.

### ***Effect of Refusal of Tellers***

#### **§ 9.4 The Committee of the Whole has sustained a ruling**

20. 102 CONG. REC. 13551, 13552, 84th Cong. 2d Sess.

1. See § 9.2, *supra*, for a discussion of this appeal.

**of the Chair that, once tellers have been properly refused, they cannot again be demanded on the same question.**

On June 13, 1957,<sup>(2)</sup> during consideration of H.R. 6127, a civil rights bill, an appeal was taken from a ruling of the Chairman regarding the sufficiency of the number of Members who rose on a demand for tellers.

THE CHAIRMAN:<sup>(3)</sup> All time has expired. The question is on the amendment offered by the gentleman from Virginia [Mr. Tuck].

The question was taken and the Chair announced that the ayes appeared to have it.

MR. [JOHN D.] DINGELL [Jr., of Michigan]: Mr. Chairman, I demand tellers.

Tellers were refused.

MR. [KENNETH B.] KEATING [of New York]: Mr. Chairman, I ask for a division.

MR. [FRANK L.] CHELF [of Kentucky]: Mr. Chairman, the request comes too late.

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Chairman, a point of order. The request does come too late.

MR. [WILLIAM M.] TUCK: Mr. Chairman, I make the point of order that the Chair had already ruled.

THE CHAIRMAN: This is the situation. The request for a teller vote was

turned down. The gentleman from New York [Mr. Keating] made a request for a division vote. He is within his rights.

The Committee divided; and there were—ayes 106, noes 114.

MR. COLMER: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. COLMER: Would it be in order to have tellers?

THE CHAIRMAN: Tellers have been refused.

MR. [ROSS] BASS of Tennessee: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. BASS of Tennessee: Mr. Chairman the tellers were refused after the Chair had ruled and said that the amendment was agreed to. Then tellers were demanded, and those people who now want tellers felt that the amendment was agreed to, so they did not rise to ask for tellers; and I can get the House to agree with me. I make that point of order and ask the Chair to rule on it.

THE CHAIRMAN: The Chair will rule that on the demand for tellers an insufficient number of Members rose to their feet.

MR. BASS of Tennessee: I disagree with the ruling of the Chair and ask for a vote on the ruling of the Chair. I say that he had already ruled on the vote.

THE CHAIRMAN: Does the gentleman appeal from the ruling of the Chair?

MR. BASS of Tennessee: I appeal from the ruling of the Chair.

MR. [WILLIAM J.] GREEN [Jr.] of Pennsylvania: Mr. Chairman, a point of order.

2. 103 CONG. REC. 9034, 9035, 85th Cong. 1st Sess

3. Aime J. Forand (R.I.).

THE CHAIRMAN: The gentleman will state it.

MR. GREEN of Pennsylvania: Mr. Chairman, it is too late for the gentleman to appeal from the ruling of the Chair.

THE CHAIRMAN: The gentleman has appealed from the ruling of the Chair.

The question is, Shall the decision of the Chair stand as the judgment of the Committee?

The question was taken, and the Chairman announced that the ayes apparently had it.

MR. BASS of Tennessee: Mr. Chairman, I demand a division.

The Committee divided; and there were—ayes 222, noes 4.

So the decision of the Chair stands as the judgment of the Committee.

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state the parliamentary inquiry.

MR. HOFFMAN: Mr. Chairman, is it now in order to ask for tellers after the rising vote?

THE CHAIRMAN: It is not in order. The question was taken on the amendment and the question was decided.

*Parliamentarian's Note:* The Chair's actual count on a vote is not subject to challenge by appeal.<sup>(4)</sup>

4. See Ch. 31, *infra*, for discussion of appeals from rulings of the Chair. See also Ch. 30, *infra*, for general discussion of voting.

For other instances in which a ruling of the Chair was sustained on appeal, see §9.2, *supra*, §§9.6, 9.7,

### ***Power to Overrule Decision on Appeal***

#### **§ 9.5 On appeal the Committee of the Whole has overruled a decision of the Chairman on a point of order.**

On Feb. 1, 1938,<sup>(5)</sup> during consideration of H.R. 9181, the Dis-

*infra*; 106 CONG. REC. 5477–79, 86th Cong. 2d Sess., Mar. 14, 1960 (a germaneness ruling during consideration of H.R. 8601, “to enforce constitutional rights”); 96 CONG. REC. 2178, 81st Cong. 2d Sess., Feb. 22, 1950 (a ruling regarding a Member’s right to yield for the purpose of offering a motion to rise during consideration of H.R. 4453, the Federal Fair Employment Practice Act); 91 CONG. REC. 9846, 9867–70, 79th Cong. 1st Sess., Oct. 19, 1945 (a germaneness ruling during consideration of H.R. 5407, reducing appropriations); 88 CONG. REC. 1708–12, 77th Cong. 2d Sess., Feb. 26, 1942 (a germaneness ruling during consideration of S. 2208, the second war powers bill, 1942); 88 CONG. REC. 606, 77th Cong. 2d Sess., Jan. 23, 1942 (a ruling on timeliness of a point of order during consideration of H.R. 6448, the fourth supplemental national defense appropriation bill, 1942); 81 CONG. REC. 7698–7701, 75th Cong. 1st Sess., July 27, 1937 (a germaneness ruling during consideration of H.R. 7730, authorizing the President to appoint administrative assistants).

5. 83 CONG. REC. 1372, 1373, 75th Cong. 3d Sess. See also Ch. 31, *infra*,

trict of Columbia appropriation bill of 1939, the Committee of the Whole heard an appeal on a decision of the Chairman that a point of order against an amendment was not timely.

The Clerk read as follows:

Amendment offered by Mr. Collins: On page 68, line 20, after the period, insert a new paragraph as, follows:

"Street lighting: For purchase, installation, and maintenance of public lamps, lampposts, street designations, lanterns, and fixtures of all kinds on streets, avenues, roads, alleys, and for all necessary expenses in connection therewith, including rental of storerooms, extra labor, operation, maintenance, and repair of motortrucks, this sum to be expended in accordance with the provisions of existing law, \$765,000: *Provided*, That this appropriation shall not be available for the payment of rates for electric street lighting in excess of those authorized to be paid in the fiscal year 1927, and payment for electric current for new forms of street lighting shall not exceed 2 cents per kilowatt-hour for current consumed."

MR. [ROSS A.] COLLINS [of Mississippi]: Mr. Chairman, the language that is incorporated in the amendment—

MR. [JACK] NICHOLS [of Oklahoma]: Mr. Chairman, I make a point of order against the amendment.

MR. COLLINS: Eliminates the language against which the gentleman made the point of order.

Mr. Chairman, I make the point of order that the gentleman's point of order comes too late.

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for appeals of the Chair's rulings on points of order.

THE CHAIRMAN:<sup>(6)</sup> The gentleman from Oklahoma makes a point of order on the amendment, and the gentleman from Mississippi makes the point of order that the point of order made by the gentleman from Oklahoma comes too late.

The point of order of the gentleman from Mississippi is sustained. . . .

MR. NICHOLS: If the Chair did recognize the gentleman from Mississippi I may say the Chair recognized him while I was on my feet taking the only opportunity presented to me to address the Chair, in order that I might direct my point of order to the Chair.

THE CHAIRMAN: That may be true. The Chair does not care to indulge in any controversy on that question with the gentleman from Oklahoma. The Chair is merely stating what occurred. The Chair may state further to the gentleman from Oklahoma, in deference to the situation which has developed here, that if that had been true, under the rules it would have been the duty of the Chair to have recognized a member of the committee in preference to any other Member on the floor. The Chair was acting under the limitations of the rule. . . .

MR. [JESSE P.] WOLCOTT [of Michigan]: Mr. Chairman, the rule, as I understand it, is that if any action is taken on the amendment, then the point of order is dilatory. The only action that could have been taken was recognition by the Chair of the gentleman from Mississippi to debate his amendment.

I want to call the attention to the Chair to the fact that the only manner in which the Chair can recognize a

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6. William J. Driver (Ark.).

Member to be heard on this floor is to refer to the gentleman either by name or by the State from which the gentleman comes, and I call the attention of the Chair to the fact that the Chair in this particular instance did not say he recognized the gentleman from Mississippi or the gentleman [Mr. Collins], and for that reason there was no official proceeding and no official action taken between the time that the amendment was offered and the time the gentleman from Oklahoma made his point of order, and therefore the point of order was not dilatory.

THE CHAIRMAN: The Chair desires, in all fairness, to make this statement to the Committee, as well as directly to the gentleman from Michigan. Not only was the gentleman from Mississippi recognized, but he began an explanation of his amendment, and the Chair certainly presumes that the gentleman being on the floor at the time heard that; and when that occurred, the Chair does not think the gentleman will disagree with the Chair about the fact that the Chair is required, under the rules, to rule in deference to the situation that developed. The Chair does not desire to forestall proceedings and would be pleased to hear points of order, but the Chair must act within the definition of the rule.

MR. WOLCOTT: If the Chair will indulge me for a moment in that respect, the point I wish to make is this. The gentleman from Mississippi had no authority to address this Committee until he had been recognized by the Chair, and if the gentleman from Oklahoma made his point of order during a brief sentence by someone which had no right under the rules of this House

even to be reported by the official reporter, then he cannot be estopped, under those circumstances, from making his point of order. The Chair of necessity must have recognized the gentleman from Mississippi to debate the amendment.

The offering of an amendment is not a proceeding which will estop the gentleman from Oklahoma from making his point of order. It is recognition by the Chair of another gentleman to discuss the amendment, and the gentleman could have discussed the amendment only after recognition was given.

I want respectfully to call this to the attention of the Chair in order that the Chair may correct any error which has been made or any seeming injustice to the gentleman from Oklahoma, and I respectfully submit that the Chair did not recognize the gentleman from Mississippi, and I believe the Record will bear this out. . . .

MR. NICHOLS: If the Chair has made a final ruling, I would, in the most respectful manner I know, request an appeal from the decision of the Chair.

THE CHAIRMAN: The gentleman from Oklahoma appeals from the decision of the Chair on the ruling of the Chair on the point of order, as stated.

The question before the Committee is, Shall the ruling of the Chair stand as the judgment of the Committee?

The question was taken, and the Chair announced that the noes had it.

So the decision of the Chair does not stand as the judgment of the Committee.

### ***Debate on Appeal***

### **§ 9.6 An appeal in the Committee of the Whole is debat-**

**able under the five-minute rule and such debate is confined to the appeal.**

On Feb. 22, 1950,<sup>(7)</sup> during general debate on H.R. 4453, the Federal Fair Employment Practices Act, Chairman Francis E. Walter, of Pennsylvania, set forth the limitations on debate on an appeal in the Committee of the Whole.

THE CHAIRMAN: The gentleman from South Carolina . . . cannot yield to the gentleman from Virginia for the purpose of offering that motion [that the Committee rise].

MR. [HOWARD W.] SMITH of Virginia: Mr. Chairman, I respectfully appeal from the decision of the Chair.

THE CHAIRMAN: The question is, Shall the decision of the Chair be sustained?

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I make a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. RANKIN: Mr. Chairman, is that appeal debatable?

THE CHAIRMAN: Under the 5-minute rule; yes.

MR. RANKIN: Mr. Chairman, I would like to be heard.

THE CHAIRMAN: The gentleman is recognized. The Chair will say that the discussion is now on the appeal. . . .

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman; a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. MARCANTONIO: I make the point of order that the gentleman from Mississippi must direct his remarks to the question of the appeal from the ruling of the Chair.

THE CHAIRMAN: The gentleman is correct. . . .

The question is, Shall the decision of the Chair be the judgment of the Committee?

The question was taken; and the Chair being in doubt, the Committee divided and there were—ayes, 123, noes, 77.

MR. SMITH of Virginia: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Powell and Mr. Smith of Virginia.

The Committee again divided; and the tellers reported that there were—ayes 148, noes 83.

So the decision of the Chair stands as the judgment of the Committee.<sup>(8)</sup>

### ***Vacating Chair to Put Appeal***

#### **§ 9.7 After an appeal was taken from a decision of the Chairman of the Committee of the Whole, the Chairman left the chair to permit another Chairman to put the question.**

On Oct. 19, 1945,<sup>(9)</sup> after sustaining a point of order that a proposed amendment was not ger-

8. See also 88 CONG. REC. 1708-12, 77th Cong. 2d Sess., Feb. 26, 1942, for a similar ruling.

9. 91 CONG. REC. 9846, 9868-70, 79th Cong. 1st Sess.

7. 96 CONG. REC. 2178, 81st Cong. 2d Sess.

mane to H.R. 4407, reducing appropriations, and hearing debate on an appeal of that ruling, Chairman Fritz G. Lanham, of Texas, left the chair to permit Chairman Jere Cooper, of Tennessee, to put the question whether the decision of the Chair should stand as the judgment of the Committee of the Whole.<sup>(10)</sup>

The Clerk read as follows:

*Be it enacted, etc.,* That the appropriations and contractual authorizations of the departments and agencies available in the fiscal year 1946, and prior year unreverted appropriations, are hereby reduced in the sums hereinafter set forth. . . .

The officer and enlisted personnel strengths of the Army, Navy, Marine Corps, and Coast Guard shall be demobilized at a rate not less than would be necessary to keep within the amounts available for their pay in consequence of the provisions of this act, unless the President otherwise shall direct. . . .

The following amendment was offered:

The Clerk read as follows:

Amendment offered by Mr. [John E.] Rankin [of Mississippi]: On page 36, line 7, after the word "direct", strike out the period, insert a colon and the following:

"*Provided*, That (a) there shall be discharged from, or released from active duty in, the military or naval

forces of the United States without delay, any person who requests such discharge or release and who—

"(1) has served on active duty 18 months or more since September 16, 1940; or

"(2) has, at the time of making such request, a wife or a child or children with whom he maintains (or would but for his service maintain) a bona fide family relationship in his home. . . ."

MR. [EMMET] O'NEAL [of Kentucky]: . . . I make the point of order that the amendment offered by the gentleman from Mississippi is not germane to the bill. . . .

THE CHAIRMAN: Does the gentleman from Kentucky desire to be heard on the point of order?

MR. O'NEAL: . . . This is writing a legislative bill in here. It is so far beyond anything in this bill that I do not believe there is any question but that the Chair will have to declare it not germane, and therefore not in order.

THE CHAIRMAN: The Chair is ready to rule.

The question before the Chair does not concern the merits of the provisions of the amendment offered by the gentleman from Mississippi. It is the duty of the Chair simply to pass upon the point of order from a parliamentary standpoint, as to whether or not the amendment is germane.

The amendment offered by the gentleman from Mississippi is clearly a general legislative expression and proposes substantive law, whereas the provision in the bill to which the amendment is offered is merely the expression of a hope that within the amounts available for their pay and in consequence of the provisions of this act demobilization will be carried on as rapidly as possible.

10. The decision whether to permit another Member to put the question on an appeal is within the discretion of the Chairman. 8 Cannon's Precedents §3101.

In the opinion of the Chair, clearly, under the limitations of the general provision on page 36, this amendment, being a general legislative provision with reference to demobilization and having the effect of substantive law, and not being restrictive is not germane. The Chair therefore sustains the point of order.

MR. RANKIN: Mr. Chairman, with all the deference in the world for the distinguished Chairman, whom we all love, I respectfully appeal from the ruling of the Chair. . . .

THE CHAIRMAN: The question at issue is, Shall the decision of the Chair stand as the judgment of the Committee of the Whole?

MR. RANKIN: Mr. Chairman, I ask for recognition on my appeal if it is debatable.

THE CHAIRMAN: The gentleman from Mississippi is recognized for 5 minutes on the appeal.

MR. RANKIN: Mr. Chairman, I merely wish to say, with all deference to the Chairman who labored considerably with this proposition that I think the amendment is clearly germane. I have taken this appeal because it is our chance to get these boys out of the service. It is no reflection on the Chair to overrule the decision of the Chair. I trust the decision of the Chair will be overruled. If it is overruled, that will give us a chance to vote on my amendment, which you can see the Members are anxious to support. . . .

MR. O'NEAL: I beg to differ with the statement of the gentleman from Mississippi. The Chair has made a decision and ruled on a point of order. This appeal is not on the merits of the amendment. The gentleman from Mis-

issippi has appealed to you that the Chair has decided wrongly. Your decision, just as though you were a judge on the bench, is to decide whether or not the Chair was in error when he ruled that the point of order was well taken.

THE CHAIRMAN (Mr. Cooper): The question is: Shall the decision of the Chair stand as the judgment of the Committee of the Whole?

The question was taken; and the Chair announced that the "ayes" had it.

So the decision of the Chair stands as the judgment of the Committee of the Whole.

### ***Appeal as Subject to Motion to Table***

#### **§9.8 The motion to lay on the table an appeal from a decision of the Chair is not in order in the Committee of the Whole.**

On Oct. 19, 1945,<sup>(11)</sup> after ruling that a proposed amendment was not germane to H.R. 4407, reducing appropriations, Chairman Fritz G. Lanham, of Texas, stated that a motion to table a decision of the Chair is not in order in the Committee of the Whole.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, with all the deference in the world for the distinguished Chairman, whom we all love, I respectfully appeal from the ruling of the Chair.

11. 91 CONG. REC. 9846, 9868-70, 79th Cong. 1st Sess.

MR. [EMMET] O'NEAL [of Kentucky]: Mr. Chairman, I move to lay the appeal on the table.

MR. RANKIN: Mr. Chairman, the appeal cannot be laid on the table. The Committee has a right to vote on it.

THE CHAIRMAN: The motion to lay on the table is not in order in the Committee.<sup>(12)</sup>

## C. MOTION TO RECOMMEND STRIKING ENACTING CLAUSE

### § 10. Generally

Although the Committee of the Whole does not have authority to consider a simple motion to strike the enacting clause of a bill,<sup>(13)</sup> it may agree to a motion that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.<sup>(14)</sup> Agreement by the House to the recommendation is considered equivalent to rejection of the bill.<sup>(15)</sup>

If the House rejects a recommendation of the Committee of the Whole to strike the enacting

clause, it automatically resolves itself into the Committee for further consideration of the bill<sup>(16)</sup> which, by operation of the rule, is returned to the Committee without further House action. The bill goes back to the Committee of the Whole as unfinished business and is subject to amendment. Before the question of concurrence by the House is raised, a motion to refer the bill to any committee with or without instructions is in order, the Member offering that motion to refer need not qualify as being opposed to the bill;<sup>(17)</sup> when the bill is again reported to the

12. See also 81 CONG. REC. 7698–7700, 75th Cong. 1st Sess., July 27, 1937, for another illustration of this principle.

13. See § 10.1, *infra*. An older line of precedents took a different view. See, for example, 5 Hinds' Precedents § 5332, stating that the motion to strike out the enacting clause applied in the Committee of the Whole. The Chair sometimes took the view that the motion to strike the enacting clause was in the nature of an amendment. (See 8 Cannon's Prece-

dents § 2618.) Since the motion can be dispositive of a bill, however, present practice is to allow it in the House and not in the Committee of the Whole.

14. § 10.2, *infra*.

See 5 Hinds' Precedents §§ 5326–5346 and 8 Cannon's Precedents §§ 2618–2638 for earlier precedents relating to these motions.

15. See § 10.6, *infra*.

16. § 10.9, *infra*.

17. See 8 Cannon's Precedents § 2629.

House, it is referred to the Committee of the Whole without debate.<sup>(18)</sup>

The motion that the Committee rise and report with the recommendation that the enacting clause be stricken is not in order during general debate on a measure in the Committee; it is in order after the first section is read during the reading for amendment.<sup>(19)</sup>

A point of order against the motion that the Committee rise and report with the recommendation that the enacting clause be stricken out should be made before debate begins<sup>(20)</sup> on the motion.

### ***Form of Motion***

#### **§ 10.1 The simple motion to strike out the enacting clause is not in order in the Committee of the Whole, not being in proper form.**

On May 18, 1960,<sup>(21)</sup> during consideration of H.R. 5, the Foreign Investment Incentive Act of 1960, Chairman William H. Natcher, of

18. Rule XXIII clause 7, *House Rules and Manual* § 875 (1979).

19. See § 11.2, *infra*.

20. 5 Hinds' Precedents § 6902; 8 Cannon's Precedents § 3442.

21. 106 CONG. REC. 10577-79, 86th Cong. 2d Sess.

Kentucky, ruled out of order a motion that the Committee of the Whole rise and report the bill back to the House with its enacting clause stricken out. However, a motion that the Committee rise and report the bill to the House with the recommendation that the enacting clause be stricken out was entertained and adopted.

MR. [THOMAS M.] PELLY [of Washington]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Pelly moves that the Committee do now rise and report the bill back to the House with its enacting clause stricken out.

THE CHAIRMAN: The Chair desires to inform the gentleman that his motion is not in order.

MR. [H.R.] GROSS [of Iowa]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Gross moves that the Committee now rise and report the bill to the House with the recommendation that the enacting clause be stricken out. . . .

The question is on the preferential motion offered by the gentleman from Iowa [Mr. Gross].

The question was taken; and on a division (demanded by Mr. Gross) there were—ayes 101, noes 93.

MR. [HALE] BOGGS [of Louisiana]: Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Boggs and Mr. Gross.

The Committee again divided, and the tellers reported there were—ayes 107, noes 101.

So the motion was agreed to.

**§ 10.2 The motion to strike out the enacting clause of a bill in the Committee of the Whole is not in proper form. The motion should provide that the Committee do now rise and report the bill to the House with the recommendation that the enacting clause be stricken out.**

On June 21, 1944,<sup>(22)</sup> during consideration of H.R. 4219, providing for appointment of female pilots and aviation cadets in the air force, Chairman Robert Ramspeck, of Georgia, ruled out of order a motion to strike out the enacting clause because of improper form and indicated the proper form.

MR. [EDOUARD V. M.] IZAC [of California]: I offer a preferential motion.

THE CHAIRMAN: The Clerk will report the motion of the gentleman from California.

The Clerk read as follows:

Mr. Izac moves to strike out the enacting clause. . . .

MR. [ANDREW J.] MAY [of Kentucky]: I reserve the point of order against the

**22.** 90 CONG. REC. 6414, 6415, 78th Cong. 2d Sess. See also, for example, 97 CONG. REC. 7498, 82d Cong. 1st Sess., June 29, 1951; and 95 CONG. REC. 2962-65, 81st Cong. 1st Sess., Mar. 22, 1949, for other illustrations of this principle.

motion on the ground that it is not in proper form and does not comply with the rules of the House. The motion should read: I move that the Committee do now rise and report the bill back with instructions that the enacting clause be stricken out.

THE CHAIRMAN: The gentleman from Kentucky is correct.

The Chair sustains the point of order.

**§ 10.3 Where the form of a motion to strike out the enacting clause of a bill in the Committee of the Whole is deficient, the Chair may rule it out of order.**

On Nov. 4, 1971,<sup>(23)</sup> during consideration of H.R. 7248, to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education, Chairman pro tempore Edward P. Boland, of Massachusetts, refused to entertain as privileged a motion that the Committee strike the enacting clause and report the bill back to the House because the motion was not in writing and not in proper form.

THE CHAIRMAN PRO TEMPORE: The Chair recognizes the gentleman from New York (Mr. Wolff).

MR. [LESTER L.] WOLFF: Mr. Chairman, I take my time to send to the desk a privileged motion.

The Clerk read as follows:

**23.** 117 CONG. REC. 39321, 92d Cong. 1st Sess.

Mr. Wolff of New York moves to strike all after the enacting clause.

THE CHAIRMAN PRO TEMPORE: The Chair will state that the motion in the form offered is not in order in the Committee of the Whole and it cannot be entertained.

MR. WOLFF: Mr. Chairman, I move that the Committee strike the enacting clause and report the bill back to the House.

THE CHAIRMAN PRO TEMPORE: Does the gentleman have his motion in writing at the Clerk's desk?

MR. WOLFF: I do not.

THE CHAIRMAN PRO TEMPORE: The Chair will state that the motion is not in order.

### *Privileged Nature*

#### **§ 10.4 A motion that the Committee of the Whole rise and report back to the House with the recommendation that the enacting clause be stricken is of high privilege.**

On July 9, 1965,<sup>(1)</sup> during consideration of H.R. 6400, the Voting Rights Act of 1965, a motion that the Committee of the Whole rise and report back to the House with the recommendation that the enacting clause of the bill be

1. 111 CONG. REC. 16227, 16228, 89th Cong. 1st Sess. See also 115 CONG. REC. 30099, 91st Cong. 1st Sess., Oct. 15, 1969, for another illustration of this principle during consideration of H.R. 14127, the Coinage Act Amendments of 1969.

stricken was offered as a preferential motion.

MR. [ALBERT W.] WATSON [of South Carolina]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Preferential motion offered by Mr. Watson:

"Mr. Watson, of South Carolina, moves that the Committee now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out." . . .

MR. [WILLIAM T.] CAHILL [of New Jersey]: Mr. Chairman, I rise in opposition to the preferential motion.

Mr. Chairman, I am very happy in a way that the gentleman from South Carolina spoke, because by his speech he pointed out I think more dramatically than anything I could say or anything anyone else could say the courage that was demonstrated by another gentleman from the South today, the gentleman from Louisiana [Mr. Boggs]. . . .

THE CHAIRMAN:<sup>(2)</sup> The question is on the preferential motion offered by the gentleman from South Carolina.

*Parliamentarian's Note:* The 10 minutes used for debate on the preferential motion was not taken from the time remaining for debate on the bill under a limitation previously agreed upon. The limitation was contained in a unanimous consent request to which the Committee had previously agreed. The request provided:<sup>(3)</sup>

2. Richard Bolling (Mo.).

3. 111 CONG. REC. 16038, 89th Cong. 1st Sess., July 8, 1965.

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I ask unanimous consent that all debate on the so-called McCulloch substitute and all amendments thereto be limited to 2 hours, and that such time be equally divided and controlled by myself and the gentleman from Ohio [Mr. McCulloch].

THE CHAIRMAN: Is there objection to the request of the gentleman from New York?

There was no objection.

### ***Divisibility***

#### **§ 10.5 A motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken out is not divisible.**

On Dec. 15, 1937,<sup>(4)</sup> during consideration in Committee of S. 2475, the wages and hours bill, under Chairman John W. McCormack, of Massachusetts, a question arose as to whether a motion

For another instance in which the time for debate on a motion to rise and report with the recommendation that the enacting clause be stricken was not taken from the time fixed for debate on an amendment previously offered (where the time was not fixed by the clock), see 99 CONG. REC. 4125-28, 83d Cong. 1st Sess., Apr. 28, 1953. See also Ch. 29 §79, *infra*.

4. 82 CONG. REC. 1600, 75th Cong. 2d Sess.

relating to the enacting clause was divisible.

THE CHAIRMAN: The motion of the gentleman from Oklahoma is directed to the enacting clause of the Senate bill.

MR. [CLARENCE E.] HANCOCK of New York: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. HANCOCK of New York: Is that motion divisible?

THE CHAIRMAN: The Chair, in answer to the gentleman's inquiry, will say the motion is not divisible.

### ***House Action on Committee Recommendation***

#### **§ 10.6 Where a bill is reported from the Committee of the Whole with the recommendation that the enacting clause be stricken out, the question before the House is on the recommendation of the Committee of the Whole; if that recommendation is agreed to, it is equivalent to a rejection of the bill.**

On Mar. 1, 1950,<sup>(5)</sup> the Committee of the Whole agreed to a motion to report H.R. 5963, authorizing contributions to the Cooperative for American Remittances to Europe, Inc., back to the

5. 96 CONG. REC. 2590, 2591, 81st Cong. 2d Sess.

House with the recommendation that the enacting clause be stricken out. The proceedings were as follows:

THE CHAIRMAN:<sup>(6)</sup> The question is on the amendment offered by the gentleman from Nebraska.

The question was taken; and on a division (demanded by Mr. Stefan) there were—ayes 92, noes 27.

MR. [JOHN] KEE [of West Virginia]: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Kee and Mr. Stefan.

The Committee again divided; and the tellers reported that there were—ayes 127, noes 46.

So the motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Price, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5953) to authorize contributions to Cooperative for American Remittances to Europe, Inc., had directed him to report the bill back to the House with the recommendation that the enacting clause be stricken out.

THE SPEAKER:<sup>(7)</sup> The question is on the motion to strike out the enacting clause.

MR. KEE: Mr. Speaker, on that I demand the yeas and nays.

MR. [JACOB K.] JAVITS [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. JAVITS: So that we may know what we are voting, is it a fact that a vote “yea” means that the enacting clause will be stricken, and a vote “nay” means that it will not be stricken and the bill will pass?

THE SPEAKER: The question now is on the motion to strike out the enactment clause.

The yeas and nays were ordered.

The question was taken; and there were—yeas 265, nays 102, not voting 65. . . .

So the motion was agreed to.

*Parliamentarian's Note:* It should be noted that, under the rules, the motion to strike the enacting clause, if carried, is equivalent to the rejection of the bill. Rule XXIII clause 7, *House Rules and Manual* §875 (1979).

### ***Resolving Clauses in Resolution of Disapproval and Applicability to Simple Resolutions Generally***

**§ 10.7 A motion that the Committee of the Whole rise and report a resolution to disapprove a reorganization plan under the Reorganization Act of 1949 back to the House with the recommendation that the resolving clause be stricken out was held not in order because that resolution is not amendable.**

On June 27, 1953,<sup>(8)</sup> during consideration of House Resolution

6. Charles M. Price (Ill.).

7. Sam Rayburn (Tex.).

8. 99 CONG. REC. 7482, 83d Cong. 1st Sess.

295, disapproving Reorganization Plan No. 6, Chairman Leslie C. Arends of Illinois, held that the motion that the Committee of the Whole rise and report the resolution back to the House with the recommendation that the resolving clause be stricken out was not in order.

MR. [W. STERLING] COLE of New York: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

MR. Cole of New York moves that the Committee do now rise with the recommendation that the enacting clause be stricken.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Chairman, I make the point of order that the motion is not in order.

THE CHAIRMAN: The Chair is compelled to agree with the gentleman from Michigan. The resolution is not amendable and, therefore, the preferential motion is not in order.<sup>(9)</sup>

**9. 5 USC §912(b)** provides that an amendment to a resolution of disapproval is not in order and the preferential motion is in order only during the stage of amendment.

*Parliamentarian's Note:* A preferential motion under the provisions of Rule XXIII clause 7, *House Rules and Manual* §875 (1979), is applicable to a simple resolution being considered under a special rule in the Committee of the Whole under the five-minute rule. See 120 CONG. REC. 34170, 34171, 93d Cong. 2d Sess., Oct. 7, 1974.

### ***Chairman's Vote***

**§ 10.8 The Chairman of a Committee of the Whole cast his vote to make a tie and thus defeated a motion to rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.**

On Aug. 1, 1957,<sup>(10)</sup> during consideration of H.R. 6763, to amend the Act of Aug. 30, 1954, entitled "an Act to authorize and direct the construction of bridges over the Potomac River," Chairman Richard Bolling, of Missouri, cast his negative vote to make a tie and thereby defeat a motion to rise and report a bill back to the House with the recommendation that the enacting clause be stricken out.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Taber moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out. . . .

THE CHAIRMAN: The question is on the motion offered by the gentleman from New York [Mr. Taber].

The question was taken; and the Chair being in doubt, the Committee

**10.** 103 CONG. REC. 13377, 13378, 85th Cong. 1st Sess.

divided, and there were—ayes 54, noes 49.

MR. [JAMES C.] DAVIS of Georgia: Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Taber and Mr. Davis of Georgia.

The Committee again divided.

THE CHAIRMAN: On this vote by tellers, the ayes are 63; noes, 62. The Chair votes “no”.

So the motion was rejected.

***Effect of House Rejection of Recommendation to Strike Enacting Clause***

**§ 10.9 When a recommendation of a Committee of the Whole that the enacting clause be stricken is rejected by the House, the House, without motion, resolves itself into the Committee of the Whole for further consideration of the bill.**

On Aug. 21, 1958,<sup>(11)</sup> the Committee of the Whole resumed its sitting after the House rejected a Committee recommendation to strike the enacting clause of S. 4036, to stabilize production of copper, lead, zinc, acid-grade

11. 104 CONG. REC. 18946–48, 85th Cong. 2d Sess. See also 111 CONG. REC. 25424–26, 89th Cong. 1st Sess., Sept. 29, 1965; and 94 CONG. REC. 6423, 80th Cong. 2d Sess., May 25, 1948, for other examples of this principle.

fluorspar, and tungsten. The proceedings were as follows:

MR. [WAYNE L.] HAYS of Ohio: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Hays of Ohio moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken. . . .

THE CHAIRMAN:<sup>(12)</sup> The time of the gentleman from Oklahoma has expired. All time on the preferential motion has expired.

The question is on the motion to strike out the enacting clause.

The question was taken; and on a division (demanded by Mr. Hays of Ohio) there were—ayes 77, noes 76.

MR. [STEWART L.] UDALL [of Arizona]: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Rogers of Texas and Mr. Hays of Ohio.

The Committee again divided, and the tellers reported that there were—ayes 108, noes 98.

So the motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Evins, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (S. 4036) to stabilize production of copper, lead, zinc, acid-grade fluorspar, and tungsten from domestic mines, had directed him to report the bill back to the House with the recommendation that the enacting clause be stricken out.

12. Joseph L. Evins (Tenn.).

THE SPEAKER:<sup>(13)</sup> The question is on the recommendation of the Committee of the Whole House on the State of the Union that the enacting clause be stricken out.

MR. [JOHN J.] RHODES of Arizona: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 171, nays 174, not voting 84. . . .

So the motion was rejected. . . .

The result of the vote was announced as above recorded.

The Committee resumed its sitting.

***Motion to Rise (Strike the Enacting Clause) and Recommit Bill to Committee***

**§ 10.10 A motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken and the bill be recommitted to a committee was held not to be in order in the Committee of the Whole.**

On Apr. 3, 1957,<sup>(14)</sup> during consideration of H.R. 6287, making appropriations for the Departments of Labor and Health, Education, and Welfare, Chairman Aime J. Forand, of Rhode Island,

held out of order a motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken and that the bill be recommitted to committee with instructions.

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Hoffman moves that the Committee do now rise, report the bill back to the House with the recommendation that the enacting clause be stricken, and that the bill be recommitted to the Committee on Appropriations with instructions that it be reported back to the House within 5 days with amendments which will indicate the places and amounts in the budget where the committee believes, in view of the statements made in the Committee of the Whole House on the State of the Union, that substantial reductions may best be made and will meet the views of the House with the least curtailment of efficient administration by the Departments affected.

MR. [JOHN E.] FOGARTY [of Rhode Island]: Mr. Chairman, I reserve a point of order on the motion.

THE CHAIRMAN: The gentleman from Michigan is recognized.

MR. HOFFMAN: In the interest of saving time, I am perfectly willing that the point of order should be ruled on now. Why wait 5 minutes or 10 minutes if it is out of order?

THE CHAIRMAN: Does the gentleman from Rhode Island care to be heard on the point of order? The Chair is ready to rule.

13. Sam Rayburn (Tex.).

14. 103 CONG. REC. 5013, 85th Cong. 1st Sess.

MR. FOGARTY: Mr. Chairman, as I remember the reading of the motion, there is matter of wording contained therein that is not permissible under the rules governing procedure in Committee of the Whole, but would be allowed under the rules of procedure in the House.

THE CHAIRMAN: Does the gentleman from Michigan desire to be heard?

MR. HOFFMAN: Yes, Mr. Chairman. I want to point out that there is a precedent for the motion and the rules cite a precedent where that motion has been held to be proper in the Committee.

THE CHAIRMAN: The Chair is not familiar with that precedent, but the rules of the House provide that certain language contained in the motion made by the gentleman from Michigan could be entertained in Committee of the Whole, but the balance of the motion would only be appropriate in the House. For that reason, the Chair sustains the point of order.<sup>(15)</sup>

15. Immediately after the ruling of the Chairman, Mr. Hoffman quoted from 8 Cannon's Precedents §2329, in which Chairman Frank D. Currier (N.H.) stated: "The gentleman may move that the Committee rise and report this bill to the House with the recommendation that it be recommitted to the Committee on Interstate and Foreign Commerce. A motion to recommit is in order in the House. It is in order in Committee of the Whole House to move that when the Committee rises it recommends to the House a recommitment of the bill."

*Note:* A motion that the Committee of the Whole rise and report a bill to

**§ 10.11 A motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that it be recommitted to the committee from which reported is not in order if that motion is not permitted under the resolution setting out the conditions under which the bill is to be considered.**

On Aug. 10, 1950,<sup>(16)</sup> during consideration of H.R. 9176, the Defense Production Act of 1950, Chairman Howard W. Smith, of Virginia, indicated that a motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that it be recommitted to the reporting committee was not in

the House with the recommendation that the bill be recommitted to the committee from which it was reported is in order only when the bill is being considered under the general rules of the House and then only at the completion of the reading of the bill for amendment (4 Hinds' Precedents §§ 4761, 4762); it is not in order when the Committee of the Whole considers the bill under a special rule requiring reading for amendment under the five-minute rule. See 96 CONG. REC. 12219, 81st Cong. 2d Sess., Aug. 10, 1950. See also Ch. 23, *infra*.

16. 96 CONG. REC. 12219, 81st Cong. 2d Sess.

order because such motion was not authorized by the special rule setting out the conditions under which the bill was being considered.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Rankin moves that the Committee do now rise and report the bill back to the House with the recommendation that it be recommitted to the Committee on Banking and Currency for further hearings and study.

MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. PATMAN: Mr. Chairman, I make the point of order that this being a straight motion to recommit, without instructions, it is not permissible under the rule under which we are considering the bill in Committee.

THE CHAIRMAN: The Chair is ready to rule.

That motion is not in order in Committee of the Whole, and the Chair sustains the point of order.

MR. RANKIN: Mr. Chairman, it is in order to make a motion that the Committee do now rise and report the bill back to the House with the recommendation that it be recommitted to the Committee on Banking and Currency for further study and hearing.

THE CHAIRMAN: In the consideration of this bill the Committee of the Whole is operating under a special rule which lays down the conditions under which the bill is to be considered. The motion

of the gentleman from Mississippi is not in order at this time.

The special rule, House Resolution 740,<sup>(17)</sup> did not authorize the Committee of the Whole to rise and report the bill back to the House with recommendation that the bill be recommitted to the standing committee. One motion to recommit would have been in order *in the House* under the special rule, the terms of which are set out below:

*Resolved*, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9176) to establish a system of priorities and allocations for materials and facilities, authorize the requisitioning thereof, provide financial assistance for expansion of productive capacity and supply, strengthen controls over credit, regulate speculation on commodity exchanges, and by these measures facilitate the production of goods and services necessary for the national security, and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and continue not to exceed 1 day, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the 5-minute rule.

17. 96 CONG. REC. 11506, 81st Cong. 2d Sess., Aug. 1, 1950.

It shall be in order to consider without the intervention of any point of order the substitute committee amendment recommended by the Committee on Banking and Currency now in the bill, and such substitute for the purpose of amendment shall be considered under the 5-minute rule as an original bill. At the conclusion of such consideration the committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

**§ 10.12 A motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken out and the bill returned to a committee with instructions to remove a provision was held not to be in proper form.**

On May 5, 1949,<sup>(18)</sup> during consideration of H.R. 2989, to incorporate the Virgin Islands Corporation, Chairman Wilbur D. Mills, of Arkansas, held that a motion that the Committee of the Whole rise

18. 95 CONG. REC. 5705, 81st Cong. 1st Sess.

and report a bill back to the House with the recommendation that the enacting clause be stricken out and the bill be returned to the legislative committee with instructions to remove a particular provision was not in proper form for a preferential motion.

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Rich moves that the Committee now rise and report the bill back to the House with the recommendation that the enacting clause be stricken and the bill be returned to the Committee on Public Lands with instructions to remove the provision permitting the Government to manufacture rum.

THE CHAIRMAN: The Chair will state that the motion as presented by the gentleman from Pennsylvania is not in proper form for a preferential motion.

The Clerk will read the bill for amendment.

***Yielding Time During Debate***

**§ 10.13 A Member offering a motion in the Committee of the Whole to strike out the enacting clause of a bill may while holding the floor yield part (but not all) of his five minutes of debate to another to discuss the motion.**

On Sept. 27, 1945,<sup>(19)</sup> during consideration of H.R. 2948, to

19. 91 CONG. REC. 9095, 79th Cong. 1st Sess.

amend the Civil Service Retirement Act to exempt certain annuity payments from taxation, Chairman Aime J. Forand, of Rhode Island, referred to the rule under which a Member offering a motion to strike out the enacting clause may yield time to another.

MR. [ANDREW J.] MAY [of Kentucky]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. May moves that the Committee do now rise and report the bill, H.R. 2948, back forthwith to the House with the recommendation that the enacting clause be stricken out.

MR. MAY: Mr. Chairman, I yield my 5 minutes to the gentleman from North Carolina, if I may.

MR. [ROBERT] RAMSPECK [of Georgia]: The gentleman cannot do that, Mr. Chairman.

THE CHAIRMAN: He can yield time while he is holding the floor.

MR. MAY: I yield part of my time, then, to the gentleman from North Carolina.

MR. [ROBERT L.] DOUGHTON of North Carolina: Mr. Chairman, for the first time in a number of years we are now preparing to bring in a tax-relief bill.

### ***Striking Enacting Clause of Senate Bill***

**§ 10.14 The Speaker has directed the Clerk to notify the Senate of agreement by the House to a recommendation of the Committee of the**

### **Whole that the enacting clause of a Senate-passed bill be stricken out.**

On Oct. 4, 1972,<sup>(20)</sup> during consideration of S. 1316, to amend the federal laws governing meat and poultry inspection, the House agreed to a recommendation of the Committee of the Whole relating to the enacting clause of the bill.

MR. [HUGH L.] CAREY of New York: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Carey of New York moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out. . . .

THE CHAIRMAN:<sup>(21)</sup> The question is on the preferential motion offered by the gentleman from New York (Mr. Carey).

The question was taken; and on a division (demanded by Mr. Carey of New York) there were—ayes 104, noes 97.

MR. [WILEY] MAYNE [of Iowa]: Mr. Chairman, I demand tellers.

Tellers were ordered.

MR. MAYNE: Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered. . . .

20. 118 CONG. REC. 33785, 33786, 92d Cong. 2d Sess.

See also 92 CONG. REC. 7211, 79th Cong. 2d Sess., June 20, 1946, for another instance in which the House struck the enacting clause of a Senate bill.

21. James W. Symington (Mo.).

The Committee divided, and the tellers reported that there were—ayes 172, noes 170, not voting 89. . . .

So the preferential motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Symington, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (S. 1316) . . . had directed him to report the bill back to the House with the recommendation that the enacting clause be stricken out.

THE SPEAKER:<sup>(22)</sup> The question is on the recommendation of the Committee of the Whole House on the State of the Union that the enacting clause be stricken out.

MR. MAYNE: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 173, nays 169, not voting 88. . . .

So the recommendation of the Committee of the Whole House on the State of the Union that the enacting clause be stricken out was agreed to. . . .

The result of the vote was announced as above recorded.

THE SPEAKER: The Clerk will notify the Senate of the action of the House.

### ***Withdrawal of Motion***

#### **§ 10.15 The motion that the Committee of the Whole rise and report a bill back to the**

22. Carl Albert (Okla.).

### **House with the recommendation that the enacting clause be stricken out was withdrawn by unanimous consent.**

On May 3, 1949,<sup>(1)</sup> during consideration of H.R. 2032, the National Labor Relations Act of 1949, a motion to strike the enacting clause was withdrawn by unanimous consent.

MR. [EUGENE] WORLEY [of Texas]: Mr. Chairman, I offer a preferential motion.

THE CHAIRMAN:<sup>(2)</sup> The Clerk will report the motion of the gentleman from Texas.

The Clerk read as follows:

Mr. Worley moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

THE CHAIRMAN: The gentleman from Texas is recognized for 5 minutes on his motion.

MR. WORLEY: . . . Mr. Chairman, I ask unanimous consent to withdraw my motion.

THE CHAIRMAN: Is there objection to the request of the gentleman from Texas?

There was no objection.

### **§ 11. When in Order**

The motion to strike out the enacting words of a bill has prece-

1. 95 CONG. REC. 5521, 5522, 81st Cong. 1st Sess.
2. Jere Cooper (Tenn.).

dence over a motion to amend.<sup>(3)</sup>  
And it may be offered while an amendment is pending.<sup>(4)</sup>

### ***Time to Offer Motion***

**§ 11.1** Because a motion to strike out the enacting clause of a bill is in order only during the stage of amendment, the Chair has indicated that the motion would not be in order after the adoption of an amendment in the nature of a substitute.

On Aug. 7, 1964,<sup>(5)</sup> during consideration of H.R. 11377, the Economic Opportunity Act of 1964, Chairman Albert Rains, of Alabama, made reference to the time during which the motion to strike out the enacting clause would be in order:

MR. [CHARLES A.] HALLECK [of Indiana]: My inquiry, Mr. Chairman, is this: After the substitute is voted on and if it is adopted would it be in order for someone or anyone, any Member, to offer a motion to strike out the enacting clause?

3. Rule XXIII clause 7, *House Rules and Manual* §875 (1979).
4. See 5 Cannon's Precedents §§5329, 5330, and 8 Cannon's Precedents §2624.
5. 110 CONG. REC. 18608, 18609, 88th Cong. 2d Sess.

THE CHAIRMAN: The Chair replies that it would not be because the stage of amending the bill would have passed.

**§ 11.2** A motion in the Committee of the Whole that the Committee rise and report a bill back to the House with the recommendation that the enacting clause be stricken out is not in order during debate on the measure but is properly offered when the bill is being read for amendment.

On July 5, 1939,<sup>(6)</sup> during general debate on H.R. 5031, regarding relief for sufferers from the earthquake in Chile, Chairman Orville Zimmerman, of Missouri, stated that a motion to strike the enacting clause was not in order.

THE CHAIRMAN: The gentleman from New York has control of the time.

MR. [ALBERT E.] CARTER [of California]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. CARTER: Would a motion that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out be in order at this time, or must we wait until debate closes?

THE CHAIRMAN: The Chair rules that the motion is not in order at this time.

6. 84 CONG. REC. 8624, 76th Cong. 1st Sess.

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Chairman, I yield 4 minutes to the gentleman from Nebraska [Mr. Stefan].

**§ 11.3 A motion to strike out the enacting clause is a preferential motion and in order at any time recognition is secured to offer it during the reading of the bill for amendment by a Member who, if challenged, qualifies as being opposed to the bill, even though that may have the effect of extending the time for debate.**

On May 26, 1945,<sup>(7)</sup> during consideration of H.R. 3240, regarding foreign trade agreements, Chairman Clifton A. Woodrum, of Virginia, overruled a point of order that a motion to strike the enacting clause should not be entertained because it had been offered merely to gain additional time for debate.

MR. [DANIEL A.] REED of New York: Mr. Chairman, I offer a preferential motion.

THE CHAIRMAN: The gentleman from New York offers a preferential motion which the Clerk will report.

The Clerk read as follows:

Mr. Reed of New York moves that the Committee do now rise and re-

port the bill back to the House with the recommendation that the enacting clause be stricken.

MR. [JERE] COOPER [of Tennessee]: Mr. Chairman, I make a point of order against the motion.

THE CHAIRMAN: The gentleman will state the point of order.

MR. COOPER: Of course, this is a motion of the highest privilege, under the rules of the House, but I submit to the Chair that when it is offered obviously for the purpose of gaining a specific object—to extend debate after the time has been fixed and the debate closed—that such a motion should not be entertained.

THE CHAIRMAN: The Chair will say to the gentleman that the effect of the motion may be to extend the time of debate, but the purpose of the motion is a vehicle by which the bill may be killed. If the gentleman from New York [Mr. Reed] is opposed to the bill, this is one way to do it.

MR. REED of New York: I am opposed to the bill, sir, as I have been consistently.

THE CHAIRMAN: The Chair overrules the point of order.

***Under Rule Permitting Only Committee Amendments***

**§ 11.4 Where a bill is being considered under a rule permitting only committee amendments and no amendments thereto, a motion that the Committee rise and report the bill back to the House with the recommendation that the enacting clause**

7. 91 CONG. REC. 5149, 79th Cong. 1st Sess. See 86 CONG. REC. 1883, 76th Cong. 3d Sess., Feb. 23, 1940, for another illustration of this principle.

**be stricken out is in order until the stage of amendment is passed.**

On Jan. 30, 1957,<sup>(8)</sup> during consideration under a closed rule of House Joint Resolution 117, to authorize the President to cooperate with nations of the Middle East, Chairman Jere Cooper, of Tennessee, stated that a motion that the Committee of the Whole rise and report the resolution back to the House with the recommendation that its enacting clause be stricken was preferential and in order.

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, I rise in support of the amendment and the resolution.

THE CHAIRMAN: Under the rules adopted by the House all debate on the pending amendment is exhausted.

The question is on the committee amendment.

The committee amendment was agreed to. . . .

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Gross moves the Committee now rise and report the resolution to the House with the recommendation that the enacting clause be stricken.

MR. [JOHN M.] VORYS [of Ohio]: Mr. Chairman, a point of order.

8. 103 CONG. REC. 1307-09, 85th Cong. 1st Sess. See 106 CONG. REC. 10577-79, 86th Cong. 2d Sess., May 18, 1960, for another illustration of this principle.

THE CHAIRMAN: The gentleman will state his point of order.

MR. VORYS: It is my understanding that under the rule this motion is not in order.

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Chairman, I want to be heard on that point of order, if I may.

THE CHAIRMAN: The Chair is ready to rule.

This is a preferential motion. It is not an amendment which is prohibited under the rule adopted by the House, but a preferential motion. It is in order. The point of order is overruled and the gentleman from Iowa [Mr. Gross] is recognized for 5 minutes in support of his preferential motion.

Following debate and rejection of the preferential motion, the Chairman put the question on the committee amendment. After the committee amendment was agreed to, the Chairman directed the Clerk to read the next committee amendment. The proceedings were as follows:

THE CHAIRMAN: The question is on the preferential motion offered by the gentleman from Iowa.

The motion was rejected.

THE CHAIRMAN: The question is on the committee amendment.

The committee amendment was agreed to.

THE CHAIRMAN: The Clerk will report the next committee amendment as it appears in the printed copy of the resolution.

The Clerk read as follows: . . .

## § 11.5 A preferential motion that the Committee rise and

**report the bill to the House with the recommendation that the enacting clause be stricken is not in order where the stage of amendment is passed; and the stage of amendment is passed in Committee of the Whole where a bill is being considered under a rule permitting only committee amendments and where no committee amendments are offered at the conclusion of general debate.**

On Apr. 16, 1970,<sup>(9)</sup> during consideration of H.R. 16311, the Family Assistance Act of 1970, Chairman John D. Dingell, of Michigan, ruled out of order a motion that the Committee of the Whole rise and report a bill to the House with the recommendation that the enacting clause be stricken. He did so on the ground that the stage of amendment had passed, no committee amendments having been offered at the conclusion of general debate. The bill was being considered under a closed rule permitting only committee amendments and no amendments thereto.

THE CHAIRMAN: Under the rule, the bill is considered as having been read for amendment. No amendments are in

order to the bill except amendments offered by direction of the Committee on Ways and Means.

Are there any committee amendments?

MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Chairman, there are no committee amendments.

MR. [OMAR T.] BURLESON of Texas: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. BURLESON of Texas: Mr. Chairman, I have a preferential motion. Is it in order to offer a preferential motion at this time?

THE CHAIRMAN: Will the gentleman advise the Chair what sort of preferential motion he has in mind?

MR. BURLESON of Texas: To strike the enacting clause.

THE CHAIRMAN: The Chair will advise the gentleman from Texas that that motion is not in order unless amendments are in order, and are offered. There being no committee amendments, that motion will not be in order at this time.

MR. BURLESON of Texas: Mr. Chairman, may I inquire, if there are no committee amendments to be offered, if the bill is perfected?

THE CHAIRMAN: The Chair will advise the gentleman from Texas that the chairman of the Committee on Ways and Means, the gentleman from Arkansas (Mr. Mills), has just advised the Chair that there are no committee amendments. That being so, the motion is not in order at this time.

Under the rule, the Committee rises.

9. 116 CONG. REC. 12092, 91st Cong. 2d Sess.

***Effect of Adoption of Amendment in the Nature of a Substitute***

**§ 11.6 After the stage of amendment is passed, the motion that the Committee of the Whole rise and report the bill with the recommendation that the enacting clause be stricken is not in order; and the adoption of an amendment in the nature of a substitute may foreclose the opportunity to offer such a motion.**

On Aug. 7, 1964,<sup>(10)</sup> during consideration of H.R. 11377, the Economic Opportunity Act of 1964, Chairman Albert Rains, of Alabama, stated that the motion that the Committee of the Whole rise and report a bill with the recommendation that the enacting clause be stricken would not be in order after the adoption of an amendment.

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Chairman, a further parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. HALLECK: As I remember the unanimous-consent request it was that debate on the pending amendment, which is the Landrum substitute, and all amendments and substitutes there-

to, close at 6:30. I did not take it that that would foreclose the consideration of a motion to strike out the enacting clause after the amendment in the nature of a substitute had been disposed of.

THE CHAIRMAN: The Chair will state that if the Landrum amendment is adopted it will foreclose the opportunity to offer a motion to strike out the enacting clause because the stage for amendment would then be passed.

**§ 11.7 Where the Committee of the Whole adopts an amendment in the nature of a substitute for an entire bill it is not subject to further amendment; and a subsequent motion that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken is not then in order because the stage of amendment has passed.**

On Apr. 1, 1949,<sup>(11)</sup> during consideration of H.R. 2023, regarding regulation of oleomargarine, Chairman William M. Whittington, of Mississippi, stated that a motion that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken out is not in order after the

10. 110 CONG. REC. 18608, 18609, 88th Cong. 2d Sess.

11. 95 CONG. REC. 3727, 81st Cong. 1st Sess.

adoption of a substitute for an entire bill.

THE CHAIRMAN: The question is on the amendment to the original bill, in the nature of a substitute, offered by the gentleman from Texas [Mr. Poage].

The question was taken; and the Chair being in doubt, the Committee divided, and there were—ayes 152, noes 140.

MR. AUGUST H. ANDRESEN [of Minnesota]: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Poage and Mr. August H. Andresen.

The Committee again divided; and the tellers reported that there were—ayes 162, noes 141.

So the substitute amendment was agreed to.

MR. AUGUST H. ANDRESEN: Mr. Chairman, I offer a preferential motion.

THE CHAIRMAN: Will the gentleman state what he proposes to offer as a preferential motion?

MR. AUGUST H. ANDRESEN: Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

THE CHAIRMAN: The gentleman is out of order. That is not a preferential motion at this time.

### ***After Ordering of Previous Question***

#### **§ 11.8 A motion in the House to strike out the enacting clause of a bill is not in order**

**after the previous question has been ordered on the bill to final passage.**

On Apr. 16, 1970,<sup>(12)</sup> during consideration of H.R. 16311, the Family Assistance Act of 1970, Speaker John W. McCormack, of Massachusetts, stated that a motion to strike out the enacting clause was not in order where the previous question had been ordered on the bill to final passage. This bill was considered under a closed rule which permitted only committee amendments and no amendments thereto.

THE SPEAKER: Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

THE SPEAKER: The question is on the passage of the bill.

MR. [OMAR T.] BURLESON of Texas: Mr. Speaker a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. BURLESON of Texas: Mr. Speaker I have a preferential motion which was not permitted to be made in the Committee of the Whole. The preferential motion is to strike the enacting clause. Is it in order in the House at this time?

THE SPEAKER: Due to the fact that the previous question has been ordered

12. 116 CONG. REC. 12092, 91st Cong. 2d Sess.

on the bill to final passage, the motion is not in order at this time.

***After Defeat of Motion to Rise and Recommend Passage***

**§ 11.9 After defeat of a motion that the Committee of the Whole rise and report a bill to the House with the recommendation that it pass, a motion that the Committee rise and report the bill with the recommendation that the enacting clause be stricken out is in order.**

On May 12, 1941,<sup>(13)</sup> during consideration of H.R. 3490, fixing the amount of annual payment by the United States toward defraying expenses of the District of Columbia government, Chairman William M. Whittington, of Mississippi, stated that it would be in order to move that the Committee of the Whole rise and report the bill with the recommendation that the enacting clause be stricken out after defeat of a motion that the Committee rise and report the bill favorably.

MR. [JENNINGS] RANDOLPH [of West Virginia]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 3490) to fix the amount

of the annual payment by the United States toward defraying the expenses of the government of the District of Columbia; and pending that, I ask unanimous consent that debate be limited to 2 hours.

After completion of general debate and reading of the bill for amendment under the five-minute rule, the manager of the bill, Mr. Randolph, moved as follows:

Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with an amendment with the recommendation that the amendment be agreed to and that the bill as amended do pass. . . .

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. TARVER: If this motion to report the bill favorably does not carry, it would then be in order to offer a motion to report the bill with the recommendation that the enacting clause be stricken out.

THE CHAIRMAN: The bill would still be in the Committee, and such a motion would be in order.

***Effect of Pendency of Motion to Limit Debate***

**§ 11.10 A preferential motion under Rule XXIII clause 7 that the Committee of the Whole rise with the recommendation that the resolving clause be stricken out is applicable to a simple resolu-**

13. 87 CONG. REC. 3917, 3938, 3939, 77th Cong. 1st Sess.

**tion and may be offered while a motion to limit debate is pending.**

On Oct. 7, 1974,<sup>(14)</sup> during consideration of a resolution (H. Res. 988) to reform the structure, jurisdiction, and procedures of House committees, the following proceedings took place:

MR. [RICHARD] BOLLING [of Missouri]: Mr. Chairman, I move that all debate on the amendment in the nature of a substitute offered by the gentlewoman from Washington (Mrs. Hansen), and all amendments thereto, conclude in 5 hours.

THE CHAIRMAN: [William H. Natcher, of Kentucky]: The question is on the motion.

The question was taken; and the Chairman announced that the noes appeared to have it.

MR. BOLLING: Mr. Chairman, I demand a recorded vote.

A series of parliamentary inquiries ensued. Then a preferential motion was made, as follows:

MR. [DAVID T.] MARTIN of Nebraska: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Martin of Nebraska moves that the Committee rise and report the resolution H. Res. 988 to the House with the recommendation that the resolving clause be stricken out.

THE CHAIRMAN: The Chair would like to ask the gentleman from Ne-

braska, is the gentleman opposed to this resolution?

MR. MARTIN of Nebraska: I am, Mr. Chairman.

THE CHAIRMAN: The gentleman qualifies to make the motion.

The gentleman from Nebraska is recognized for 5 minutes in support of his motion.

**§ 11.11 The motion that the Committee of the Whole rise and report a bill to the House with the recommendation that the enacting clause be stricken out (Rule XXIII clause 7)<sup>(15)</sup> takes precedence over a motion to limit debate under Rule XXIII clause 6.<sup>(16)</sup>**

On Dec. 14, 1973,<sup>(17)</sup> during consideration of H.R. 11450, the Energy Emergency Act, Chairman Richard Bolling, of Missouri, indicated that a motion that the Committee of the Whole rise and report the bill to the House with the recommendation that the enacting clause be stricken out took precedence over a motion to limit debate.

MR. [Samuel L.] DEVINE [of Ohio]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

14. 120 CONG. REC. 34170, 34171, 93d Cong. 2d Sess.

15. *House Rules and Manual* §875 (1979).

16. *Id.* at §874.

17. 119 CONG. REC. 41711-14, 93d Cong. 1st Sess.

MR. DEVINE: Mr. Chairman, my parliamentary inquiry is this: Is a motion now in order to say that the House will vote on the bill and all amendments thereto by a time certain?

THE CHAIRMAN: The Chair will state that a motion to limit debate on the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers) and all amendments thereto, to a time certain, would be in order.

MR. DEVINE: Mr. Chairman, I therefore will make that motion.

Mr. Chairman, I move that all debate on the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers) and all amendments thereto, close at 5:30 p.m. today. . . .

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, my parliamentary inquiry is this: Must that motion be in writing?

THE CHAIRMAN: The Chair will state that the motion must be in writing if the gentleman insists upon it.

MR. GROSS: Mr. Chairman, I do so insist.

MR. [Phillip M.] LANDRUM [of Georgia]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Landrum moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

THE CHAIRMAN: The gentleman from Georgia (Mr. Landrum) is recognized for 5 minutes in support of his preferential motion. . . .

The question is on the preferential motion offered by the gentleman from Georgia (Mr. Landrum).

The preferential motion was rejected.

MR. DEVINE: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman from Ohio will state it.

MR. DEVINE: At the time the gentleman from Georgia made his preferential motion, I had already made a motion before the House, and it was requested that that be put in writing. That was done, and it is currently at the Clerk's desk. I wonder what the status of that motion is that was pending at the time the preferential motion was made.

THE CHAIRMAN: The preferential motion takes precedence. The preferential motion was rejected.

MR. DEVINE: Mr. Chairman, I offer a motion.

The Clerk read as follows:

Mr. Devine moves that all debate on the amendment in the nature of a substitute, H.R. 11882, and all amendments thereto be concluded by 6:30 p.m.

*Parliamentarian's Note:* On Oct. 7, 1974 (see §11.10, *supra*), the Chair entertained as preferential a motion that the Committee rise with the recommendation that the resolving clause of a simple resolution be stricken out while there was pending a motion to limit debate. The motion is more preferential since, if adopted, it is a final disposition of the bill in Committee.

### ***Duration of Debate***

### **§ 11.12 A motion that the Committee of the Whole rise and**

**report a bill back to the House with the recommendation that the enacting clause be stricken is debatable for 10 minutes.**

On Oct. 17, 1945,<sup>(18)</sup> during consideration of H.R. 3615, the airport bill, Chairman Graham A. Barden, of North Carolina, stated the time for debate on a motion to strike out the enacting clause of the bill:

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Hoffman moves that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, a parliamentary inquiry.

The Chairman: The gentleman will state it.

MR. MCCORMACK: My understanding is that on the motion offered by the gentleman from Michigan there may be 10 minutes of debate, 5 minutes for and 5 minutes against, and that if the motion is defeated the 10 minutes of debate on the amendment still remain to be used. Is that correct?

18. 91 CONG. REC. 9751, 79th Cong. 1st Sess. See also 89 CONG. REC. 654, 78th Cong. 1st Sess., Feb. 5, 1943; and 79 CONG. REC. 13013, 74th Cong. 1st Sess., Aug. 13, 1935. See Rule XXIII clause 7 and comment thereto, *House Rules and Manual* §§875, 876 (1979).

THE CHAIRMAN: The gentleman is correct.

### ***Precedence of Motion to Rise***

**§ 11.13 A motion that the Committee of the Whole do now rise takes precedence over a pending motion to rise and report with the recommendation that the enacting clause be stricken out.**

On May 24, 1967,<sup>(19)</sup> during consideration of H.R. 7819, the Elementary and Secondary Education Act Amendments of 1967, Chairman Charles M. Price, of Illinois, stated that the motion that the Committee of the Whole rise takes precedence over a pending motion to rise and report with the recommendation that the enacting clause be stricken out.

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Hays moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out. . . .

THE CHAIRMAN: The question is on the preferential motion offered by the gentleman from Ohio [Mr. Hays].

19. 1113 CONG. REC. 13876, 13877, 90th Cong. 1st Sess. See 82 CONG. REC. 1600, 75th Cong. 2d Sess., Dec. 15, 1937, for another illustration of this principle.

MR. [CARL D.] PERKINS [of Kentucky]: Mr. Chairman, I move that the Committee do now rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from Kentucky [Mr. Perkins].

MR. [PAUL C.] JONES of Missouri: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. JONES of Missouri: Does not a preferential motion require a vote before the Chair can accept another motion?

THE CHAIRMAN: No. A motion to rise takes precedence over any other motion.

The question is on the motion offered by the gentleman from Kentucky [Mr. Perkins].

MR. [LESLIE C.] ARENDS [of Illinois]: Mr. Chairman, on that I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Perkins and Mr. Goodell.

The Committee divided and the tellers reported that there were—ayes 127, noes 186.

So the motion was rejected.

THE CHAIRMAN: The question is on the preferential motion.

MR. JONES of Missouri: Mr. Chairman, I demand tellers. Tellers were refused.

THE CHAIRMAN: The question is on the preferential motion.

The preferential motion was rejected.

### ***Precedence of Motion to Re-commit***

#### **§ 11.14 When a bill is reported to the House by the Com-**

**mittee of the Whole with the recommendation that the enacting clause be stricken out, pending the question of concurrence, a motion to recommit the bill to a committee is in order under Rule XXIII clause 7,<sup>(20)</sup> and is voted on before the recommendation to strike out the enacting clause.**

On Mar. 22, 1949,<sup>(21)</sup> during consideration of H.R. 2681, to provide pensions for veterans of World Wars I and II, and after the Committee of the Whole rose with the recommendation that the enacting clause be stricken out, Speaker Sam Rayburn, of Texas, stated that pending the question of concurrence on the motion to strike the enacting clause a motion to recommit the bill to committee was in order. The House voted on the motion to recommit before the recommendation to strike the enacting clause.

The proceedings were as follows:

MR. [JOHN A.] CARROLL [of Colorado]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Carroll moves that the Committee do now rise and report the

20. *House Rules and Manual* §875 (1979).

21. 95 CONG. REC. 2962–65, 81st Cong. 1st Sess.

bill back to the House with the recommendation that the enacting clause be stricken out. . . .

THE CHAIRMAN:<sup>(1)</sup> The question is on the preferential motion of the gentleman from Colorado.

The question was taken; and the Chair being in doubt, the Committee divided, and there were—ayes 154, noes 139.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. Carroll and Mr. Rankin.

The Committee again divided; and the tellers reported that there were—ayes 163, noes 154.

So the motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Gore, Chairman of the Committee . . . reported that the Committee . . . had directed him to report the bill back to the House with the recommendation that the enacting clause be stricken out.

THE SPEAKER: The question is on the recommendation of the Committee of the Whole House on the state of the Union that the enacting clause be stricken out.

MR. CARROLL: Mr. Speaker, I offer a motion to recommit.

The Clerk read as follows:

Mr. Carroll moves that the bill H.R. 2681 be recommitted to the Committee on Veterans' Affairs.

MR. RANKIN: Mr. Speaker, I demand a vote on the motion to strike out the enacting clause.

THE SPEAKER: The Chair holds that this motion [to recommit] offered by the gentleman from Colorado at this time is in order.

MR. CARROLL: Mr. Speaker, I move the previous question.

The previous question was ordered.

The question was taken on the motion to recommit [which was rejected]. . . .

THE SPEAKER: The question is on the recommendation of the Committee of the Whole House on the State of the Union that the enacting clause be stricken out. Those in favor of voting to strike out the enacting clause of the bill will, when their names are called, vote "aye"; those opposed vote "nay." . . .

The yeas and nays were ordered.

The question was taken; and there were—yeas 120, nays 291, not voting 22, as follows: . . .

So the recommendation of the Committee of the Whole was rejected. . . .

THE SPEAKER: The House automatically resolves itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 2681.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 2681, with Mr. Gore in the chair.

The Clerk read the title of the bill.

THE CHAIRMAN: When the Committee rose, there was an amendment pending offered by the gentleman from New York [Mr. Kearney].

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Chairman, I ask unanimous consent that the amendment be reread for the information of the Committee.

1. Albert A. Gore (Tenn.).

THE CHAIRMAN: Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

When the Committee of the Whole agreed to a motion to rise that day, the Chairman reported that the Committee had come to no resolution on H.R. 2681. The Committee of the Whole considered the measure again on the following day. On Mar. 24, 1949, the House again resolved into the Committee of the Whole for further consideration of H.R. 2681.<sup>(2)</sup> Subsequently, Mr. Olin E. Teague, of Texas, moved that the Committee rise and report back to the House with the recommendation that the enacting clause be stricken, creating a parliamentary situation that Mr. Francis H. Case, of South Dakota, suggested was similar to that prevailing on Mar. 22, 1949. This time, however, the House voted to recommit the bill to the Committee on Veterans' Affairs for further study.

## **§ 12. Procedures; Qualification to Offer or Oppose**

### ***Qualification to Offer Motion***

#### **§ 12.1 A Member offering a motion to strike out the enact-**

2. 95 CONG. REC. 3110-15, 81st Cong. 1st Sess.

#### **ing clause is required upon request of another Member to qualify as being opposed to the bill.**

On May 6, 1950,<sup>(3)</sup> during consideration of H.R. 7786, the general appropriation bill of 1951, Chairman Jere Cooper, of Tennessee, required a Member who offered a motion to strike the enacting clause to qualify as being opposed to the bill.

THE CHAIRMAN: The time of the gentleman from Texas has expired. All time on this amendment has expired.

MR. [HALE] BOGGS of Louisiana: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Boggs of Louisiana moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out. . . .

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the further point of order that the gentleman has not stated that he is opposed to the bill.

THE CHAIRMAN: The gentleman from New York makes the point of order that the gentleman from Louisiana is not qualified to offer the motion. The Chair will endeavor to qualify the gentleman.

Is the gentleman from Louisiana opposed to the bill?

MR. BOGGS of Louisiana: I am, Mr. Chairman.

3. 96 CONG. REC. 6571, 81st Cong. 2d Sess.

THE CHAIRMAN: The gentleman qualifies.

The gentleman from Louisiana is recognized for 5 minutes.

**§ 12.2 It is not in order for a Member in favor of a bill to offer a motion to rise and report with the recommendation that the enacting clause be stricken.**

On Mar. 6, 1958,<sup>(4)</sup> during consideration of H.R. 8002, providing for improved methods of stating budget estimates and estimates for deficiency and supplemental appropriations, Chairman Wilbur D. Mills, of Arkansas, stated that a Member who favors a bill may not offer a motion to rise and report the bill back to the House with instructions to strike out the enacting clause.

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. HOFFMAN: Would a motion be in order from a Member who is in favor of the bill, to recommit the bill with instructions that the enacting clause be stricken?

THE CHAIRMAN: That would not be in order from a Member in favor of the bill.<sup>(5)</sup>

4. 104 CONG. REC. 3614, 85th Cong. 2d Sess.

5. A Member rising to make a parliamentary inquiry may not under

**§ 12.3 The Chair overruled the point of order that a motion to strike out the enacting clause of a bill was dilatory where the Member offering the motion stated his opposition to the bill.**

On Mar. 30, 1950,<sup>(6)</sup> during consideration of H.R. 7797, to provide foreign economic assistance, Chairman Oren Harris, of Arkansas, ruled on a point of order that a motion to strike out the enacting clause was dilatory:

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Fulton moves that the Committee do now rise and that the bill be reported to the House with the enacting clause stricken.

MR. [FRANK B.] KEEFE [of Wisconsin]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. KEEFE: Mr. Chairman, I make the point of order against the preferential motion that it is dilatory. The gentleman from Pennsylvania is not opposed to this bill and is not in good faith asking that the enacting clause

that guise offer a motion to strike out the enacting clause but must have the floor in his own right for that purpose. 8 Cannon's Precedents §2625.

6. 96 CONG. REC. 4424, 81st Cong. 2d Sess.

be stricken out; he is advocating this bill vehemently and is simply taking this means to get 5 minutes time when many others of us have been waiting for 2 days trying to get time, but in vain.

THE CHAIRMAN: The Chair would like to inquire of the gentleman from Pennsylvania [Mr. Fulton] if he is opposed to the bill?

MR. FULTON: In its present form I would be opposed to it.

THE CHAIRMAN: The Chair must accept the statement of the gentleman from Pennsylvania.

The Chair overrules the point of order and recognizes the gentleman from Pennsylvania in support of his preferential motion.

### ***Presumptions as to Proponent's Qualification***

#### **§ 12.4 Where a motion is made that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken, the Chair assumes that the proponent favors the motion.**

On May 5, 1955,<sup>(7)</sup> the Committee of the Whole was considering H.R. 12, providing price supports for basic commodities, under Chairman Robert L. F. Sikes, of Florida. A point of order was raised as to the qualification of the proponent of a motion to

7. 101 CONG. REC. 5774, 84th Cong. 1st Sess.

strike the enacting clause of the bill.

MR. [THOMAS G.] ABERNETHY [of Mississippi]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Abernethy moves that the committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

THE CHAIRMAN: The gentleman from Mississippi is recognized for 5 minutes in support of his motion.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. HOFFMAN of Michigan: The gentleman from Mississippi has made a motion to strike out the enacting clause and report the bill back to the House with that recommendation. I challenge his right to speak unless he is in favor of his motion.

THE CHAIRMAN: The Chair assumes the gentleman is in favor of his motion.

#### **§ 12.5 In recognizing a Member for a motion to strike out the enacting clause the Chair will accept the statement of that Member that he is opposed to the bill.**

On Mar. 30, 1950,<sup>(8)</sup> during consideration of H.R. 7797, to provide foreign economic assistance, Chairman Oren Harris, of Arkansas, ruled on a point of order that

8. 96 CONG. REC. 4424, 81st Cong. 2d Sess.

a Member seeking recognition on a motion to strike the enacting clause was not acting in good faith.

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Fulton moves that the Committee do now rise and that the bill be reported to the House with the enacting clause stricken.

MR. [FRANK B.] KEEFE [of Wisconsin]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. KEEFE: Mr. Chairman, I make the point of order against the preferential motion that it is dilatory. The gentleman from Pennsylvania is not opposed to this bill and is not in good faith asking that the enacting clause be stricken out; he is advocating this bill vehemently and is simply taking this means to get 5 minutes time when many others of us have been waiting for 2 days trying to get time, but in vain.

THE CHAIRMAN: The Chair would like to inquire of the gentleman from Pennsylvania [Mr. Fulton] if he is opposed to the bill?

MR. FULTON: In its present form I would be opposed to it.

THE CHAIRMAN: The Chair must accept the statement of the gentleman from Pennsylvania.

The Chair overrules the point of order and recognizes the gentleman from Pennsylvania in support of his preferential motion.

### ***Effect of Closed Rule***

### **§ 12.6 Where a bill is being considered in the Committee**

**of the Whole under a rule permitting only committee amendments, any Member may offer a motion during the stage of amendment that the Committee of the Whole rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.**

On June 29, 1951,<sup>(9)</sup> a motion that the Committee of the Whole rise and report to the House with the recommendation that the enacting clause be stricken out was offered during consideration of House Joint Resolution 278, to continue for a temporary period the Defense Production Act of 1950 and the Housing and Rent Act of 1947. The joint resolution was being considered under House Resolution 294, which permitted only committee amendments and one other specified amendment.<sup>(10)</sup>

The proceedings were as follows:

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, I offer the amendment authorized by the resolution.

The Clerk read as follows: . . .

[Debate ensued on the Cooley amendment.]

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Chairman, I offer a preferential motion.

9. 97 CONG. REC. 7498, 82d Cong. 1st Sess.

10. See *id.* at p. 7482, for the text of this resolution.

The Clerk read as follows:

Mr. Hoffman of Michigan moves that the Committee do now rise and report the resolution back to the House with the recommendation that the enacting clause be stricken.

MR. HOFFMAN of Michigan: Mr. Chairman, the parliamentary procedure here which we have just gone through is about on a par with the way in which the price- and wage-control law which we gave the President on September 8, 1950, has been interpreted and administered by the administration; and I say that with all due respect to the rulings of the Chairman.

It was my understanding when the gentleman from North Carolina [Mr. Cooley] rose and asked consent to present an amendment that what he was doing was getting permission to offer his amendment to the amendment which is printed in the resolution. I now discover that I apparently have been negligent and did not know what was going on, because, as I understand the ruling of the Chair, all we get now is one vote on the amendment set forth in the resolution as amended by the Cooley amendment, and that we do not have an opportunity to vote on the amendment to the amendment; otherwise, of course, I would have objected. . . .

Mr. Chairman, I ask unanimous consent to withdraw my preferential motion.

THE CHAIRMAN [WILBUR D. MILLS, OF ARKANSAS]: Is there objection to the request of the gentleman from Michigan?

There was no objection.

THE CHAIRMAN: The question is on the amendment offered by the gen-

tleman from North Carolina [Mr. Cooley].

The question was taken; and on a division (demanded by Mr. Spence) there were—ayes 143, noes 87.

MR. [JACOB K.] JAVITS [of New York]: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Cooley and Mr. Deane.

The Committee again divided; and the tellers reported that there were—yeas 165, noes 106.

So the amendment was agreed to.

*Parliamentarian's Note:* No point of order was made against Mr. Hoffman's motion, but, if the point was made, the motion would have been held in order under Rule XXIII clause 7.

### ***Committee Chairman as Proponent***

**§ 12.7 The chairman of the legislative committee from which a bill was reported, having expressed his objections to the bill and relinquished control of it, offered a motion to strike the enacting clause of the bill.**

On July 5, 1956,<sup>(11)</sup> immediately after the House resolved itself into the Committee of the Whole for further consideration of H.R. 7535, to authorize federal assistance to the states and local com-

11. 102 CONG. REC. 11859, 84th Cong. 2d Sess.

munities in financing to eliminate the national shortage of classrooms, legislative committee Chairman Graham A. Barden, of North Carolina, expressed his objections, relinquished control of the bill, and later offered a motion to strike out the enacting clause.

MR. BARDEN: Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I have a brief statement I should like to make to the House.

For 22 years I have done my best to be sincere and frank with the membership of this House. I propose to continue that, both in attitude and in practice.

I have very definitely reached the conclusion that the American people do not want this legislation in its present form. Certain things have happened to the bill that make it very, very obnoxious and objectionable to the people I represent.

I never have claimed to be an expert when advocating something that I was sincerely and conscientiously for. I have always felt I would be a complete flop in trying to advocate something I did not believe in and did not advocate. This bill is objectionable to me. It has so many bad features and so many things have been given priority over the consideration of the objective that we set out to accomplish that I must say, in all frankness, to the House I cannot continue in the position here of directing this bill. I feel that someone who can be fairer to the bill in its present shape than I, should handle the bill. I would have to be a much better actor than I now am to proceed in

the position of handling this piece of legislation which I cannot support and do not want to pass. For that reason, I want the House to understand my very definite position in the matter. So, with that, I think the House will understand my position and those in a position on the committee to handle the bill will have my cooperation to a certain extent, but no one need to expect any assistance from me or any encouragement for the bill. . . .

Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Barden moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

Mr. Chairman, I offer this motion to strike the enacting clause because I think it proper and in the interest of good legislation. I think it is something the majority of the Members of this House want to do, for I think the bill is now in such shape that it will in the final analysis be defeated. So, without consuming 5 minutes, I say to the House that I hope you will adopt this motion and save a lot of time. . . .

THE CHAIRMAN:<sup>(12)</sup> The question is on the preferential motion offered by the gentleman from North Carolina, Mr. Barden.

MR. [MARTIN] DIES [Jr., of Texas]: Mr. Chairman, I demand tellers on this vote.

Tellers were ordered, and the Chairman appointed as tellers Mr. Barden and Mr. McConnell.

The Committee divided; and the tellers reported that there were—ayes 130, noes 148.

12. Francis E. Walter (Pa.).

So the motion was rejected.

### ***Offering Motion to Secure Debate Time***

#### **§ 12.8 When because of a time limitation on debate a Member is unable to speak during the stage of amendment, a motion to strike out the enacting clause is sometimes used to secure time for debate.**

On Feb. 23, 1940,<sup>(13)</sup> during consideration of House Joint Resolution 407, regarding trade agreements, Chairman Clifton A. Woodrum, of Virginia, indicated that a Member may offer a motion to strike out the enacting clause and thereby secure time for debate when he is unable to obtain time to speak during the stage of amendment.

MR. [FRANK] CROWTHER [of New York]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Crowther moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

MR. [LINDSAY C.] WARREN [of North Carolina]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. WARREN: Mr. Chairman, I hope that the present occupant of the chair, with the long experience he has had in presiding over the Committee of the Whole, will now come to the conclusion that the motion offered by the gentleman from New York is out of order.

The motion for the Committee to rise and strike out the enacting clause is one of the highest preferential motions that can be offered in this body. We have seen the time fixed for the closing of the debate on this particular amendment. The gentleman from New York [Mr. Crowther] had full opportunity to get recognition, or to ask for recognition, within the time fixed by the Committee itself for closing debate. In 9 cases out of 10, when this motion is offered, it is done for a frivolous purpose, and such a high motion, privileged as it is, should not be offered for this purpose; and I hope the Chair, of his own accord, will rule it out of order. . . .

THE CHAIRMAN: The Chair appreciates the fundamental proposition involved in the point of order raised by the gentleman from North Carolina [Mr. Warren]. Undoubtedly, under a strict construction of the rules of the House, the motion that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken out is a motion of high order and should not be resorted to as a frivolous motion. The Chair, however, cannot blot out of his memory 17 years of service in the House in which, almost without exception, so far as the Chair knows, Members of both parties on both sides of the aisle have resorted to the motion when, because of a limitation of debate, they were unable to get time. In the particular instance the gentleman

13. 86 CONG. REC. 1883, 76th Cong. 2d Sess. See also 91 CONG. REC. 5149, 79th Cong. 1st Sess., May 26, 1945.

from New York [Mr. Crowther], the ranking minority member on the committee, who is opposed to the bill, sought to get time and the Chair had committed himself and the debate was limited. The Chair certainly does not think this would be an appropriate time to depart from the universal custom of the House, and the Chair, therefore, overrules the point of order and recognizes the gentleman from New York [Mr. Crowther].

*Parliamentarian's Note:* The Member making the motion must on request qualify as being opposed to the bill.

**§ 12.9 Debate on a paragraph of a bill having been exhausted in the Committee of the Whole, it is in order, to secure time for debate, to move that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken out if the proponent of the motion is opposed to the bill.**

On Mar. 13, 1942,<sup>(14)</sup> during consideration of the agriculture appropriations bill, 1943, Chairman Robert Ramspeck, of Georgia, overruled a point of order to the effect that a Member cannot be recognized on a motion to strike out the enacting clause if the in-

tent in offering the motion is merely to obtain time for debate.

MR. [ANDREW J.] MAY [of Kentucky]: Mr. Chairman, I offer a preferential motion.

THE CHAIRMAN: The Clerk will report the motion.

The Clerk read as follows:

Mr. May moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

THE CHAIRMAN: The gentleman from Kentucky is recognized for 5 minutes in support of his motion.

MR. MAY: When I am through talking at the end of 5 minutes, of course, I expect to withdraw this motion, or if that permission is refused me I expect the House to vote it down.

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman from Missouri will state the point of order.

MR. MAY: Mr. Chairman, I have not yielded for a point of order.

MR. CANNON of Missouri: Mr. Chairman, I make the point of order that under the unanimous-consent agreement all time for debate has expired and the gentleman cannot be recognized on a motion to strike out the enacting clause . . . offered merely to secure time for debate.

THE CHAIRMAN: Does the gentleman from Kentucky desire to be heard on the point of order?

MR. MAY: Yes, Mr. Chairman. . . . I stated that I offered the motion to strike out the enacting clause, but that I expected at the end of my remarks to withdraw it, or if permission was not

14. 88 CONG. REC. 2439, 77th Cong. 2d Sess.

granted me to withdraw it, that I expected the Committee would vote it down. I did not ask them to vote it down. I said I would exercise a right which I have under the rules of the House to ask to withdraw a motion.

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Chairman, a further point of order.

THE CHAIRMAN: The gentleman from Michigan will state his further point of order.

MR. HOFFMAN: The gentleman from Kentucky has not said that he was opposed to the bill.

THE CHAIRMAN: Is the gentleman from Kentucky opposed to the bill?

MR. MAY: I am in favor of the two amendments, and I am in favor of all the reductions that have been made in these appropriations.

THE CHAIRMAN: The gentleman has not answered the Chair's question. Is the gentleman opposed to the bill?

MR. MAY: Does the Chairman mean the entire bill?

THE CHAIRMAN: Yes.

MR. MAY: I am opposed to the bill in its present form.

THE CHAIRMAN: The gentleman qualifies.

MR. CANNON of Missouri: If the Chair will indulge me further, we are now operating under a special order of the Committee of the Whole under which debate was closed at the end of an hour. The gentleman now proposes to violate the special order and concedes that is his purpose by announcing that, at the close of his remarks, he will withdraw the motion. But the gentleman is obviously out of order even had he not made that admission, as no one seriously offers a motion to strike

out the enacting clause of a bill of this character and the Chair should take judicial notice of that self-evident fact.

The proposal of the motion at this time also violates another rule of the House—a universal rule of debate in every parliamentary body in the world—that the committee shall have the right to close debate.

The proposal of my good friend the gentleman from Kentucky with whom I have served for many years and for whom I have the highest regard, is all the more flagrant in view of the fact that he could have secured time when the order was made, but made no effort to do so.

Nothing could be more unfair and more conducive of disorder or more at variance with parliamentary equity than the proposal to disrupt the program agreed upon by order of the Committee of the Whole.

The gentleman is not entitled to recognition on such a patent subterfuge.

THE CHAIRMAN: The gentleman from Kentucky qualifies. The point of order is overruled.

**§ 12.10 The practice of offering motions to strike out the enacting clause of a bill merely to obtain time for debate has been criticized as an invasion of the right of the Committee of the Whole to close debate.**

On Feb. 26, 1940,<sup>(15)</sup> during consideration of H.R. 8641, a supple-

15. 86 CONG. REC. 2017–19, 76th Cong. 3d Sess. See 88 CONG. REC. 2439, 2441, 2442, 77th Cong. 2d Sess.,

mental appropriations bill, Mr. Clarence Cannon, of Missouri, stated his objections to the use of the motion to strike out the enacting clause to obtain time for debate.

MR. CANNON of Missouri: . . . One practice, however, has grown up, and is being resorted to with increasing frequency of late, which, if continued, will require some change, either in the rules themselves or preferably through the decision of some able and experienced chairman. It is the unwarranted practice of using, on every occasion and any occasion, the motion to strike out the enacting clause for the purpose of obtaining the floor for debate. Of late, there is rarely an instance in which a consent agreement is secured to limit debate in the Committee of the Whole but what some Member nullifies the agreement and disregards the established rules of debate by moving to strike out the enacting clause. The Member could have asked to be included at the time debate was agreed on and have had his quota of time in regular order, but he waits until all time has expired and the Committee has closed debate, as is its right, and then disrupts the proceedings by again opening the question to debate in disregard of the understanding to which all interested Members on both sides of the aisle have agreed, or by vitiating the right of those in charge of the bill to close debate. Such misuse of the motion is unwarranted and is in bad taste and verges on bad faith. If my warm,

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Mar. 13, 1942, for other statements by Mr. Cannon on this subject.

personal friend from New York will indulge me by permitting me to use his recent motion as an example, in answer to my point of order, he said he had made the motion in good faith. . . .

MR. [KARL E.] MUNDT [of South Dakota]: Mr. Chairman, will the gentleman yield?

MR. CANNON of Missouri: I yield to the gentleman from South Dakota.

MR. MUNDT: Will the gentleman advise me, a new Member of the House, what other course a Member may take to get access to the floor if a situation arises such as occurred last Friday, when debate was ruthlessly closed and no time was permitted, except about 34 minutes out of the day, for Members other than committee members to introduce amendments? What other recourse does a Member have except to offer such a motion?

MR. CANNON of Missouri: That would not give a Member an opportunity to introduce an amendment, it would merely give him 5 minutes to interfere with the orderly program of the House.

MR. MUNDT: It would give him 5 minutes to present the viewpoint of his constituents.

MR. CANNON of Missouri: If the rules permitted every Member of the House time in which to present the views of his constituents, we would never be able to dispose of the business of the House in an ordinary session. Gentlemen may extend their remarks, and in full, on any bill under consideration and still keep within legitimate procedure. . . .

The right of the House to close debate is indispensable. Without it, debate would proceed endlessly. And the

right of the Committee or the proponent to close debate is axiomatic. To interfere with either right is disorderly and should be held by the Chair. . . .

. . . Whenever the motion [recommending that the enacting clause be stricken] is offered it should raise in the mind of the Chair and of the Members of the Committee the question: "What is the purpose of the gentleman in offering the motion; is the motion proposed for the purpose of discontinuing consideration of the bill, or is it offered for the purpose of securing time and disrupting the order of debate?" And when obviously offered for the latter purpose it should never be recognized.

### ***Qualification to Oppose Motion***

#### **§ 12.11 To obtain recognition to oppose a motion to strike out the enacting clause, a Member must qualify by stating that he is opposed to the motion.**

On July 20, 1951,<sup>(16)</sup> during consideration of H.R. 3871, amendments to the Defense Production Act of 1950, Chairman Wilbur D. Mills, of Arkansas, stated the qualifications necessary for a Member seeking recognition to oppose a motion to strike out the enacting clause.

MR. [CHARLES W.] VURSELL [of Illinois]: Mr. Chairman, I offer a preferential motion.

16. 97 CONG. REC. 8539, 82d Cong. 1st Sess. See 95 CONG. REC. 5531, 81st Cong. 1st Sess., May 3, 1949, for another example of this principle.

The Clerk read as follows:

Mr. Vursell moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Chairman, I rise in opposition to the motion.

THE CHAIRMAN: The Chair recognizes the gentleman from Michigan.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, I rise in opposition to the motion.

THE CHAIRMAN: The Chair would have to hold that he had already recognized the gentleman from Michigan. . . .

MR. MCCORMACK: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. MCCORMACK: The point is that the gentleman from Michigan, on at least two occasions, has made the same motion. . . .

Furthermore, the gentleman from Michigan has not stated that he is, in fact, opposed to the motion offered by the gentleman from Illinois.

THE CHAIRMAN: Does the gentleman from Michigan now qualify as being in opposition to the motion offered by the gentleman from Illinois?

MR. HOFFMAN of Michigan: I certainly do.

MR. MCCORMACK: Under those circumstances, I do not seek recognition.

### ***Recognition of Opponent***

#### **§ 12.12 In recognizing a Member in the Committee of the**

**Whole in opposition to a motion to strike out the enacting clause, the Chair extends such recognition on the basis of the Member's opposition to the motion, and the Member's position on an amendment pending when the motion is offered is not determinative.**

On Nov. 29, 1945,<sup>(17)</sup> during consideration of H. R. 4805, the first defense appropriations bill, 1946, Chairman R. Ewing Thomason, of Texas, indicated that the Chair would not anticipate the argument a Member might make when he seeks recognition to debate a motion to strike the enacting clause.

MR. [ALBERT J.] ENGEL of Michigan: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Engel of Michigan moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

THE CHAIRMAN: Is the gentleman opposed to the bill?

MR. ENGEL of Michigan: I am, Mr. Chairman, in its present form.

THE CHAIRMAN: The Chair recognizes the gentleman from Michigan.

MR. ENGEL of Michigan: Mr. Chairman, in speaking against this appro-

priation I want it distinctly understood that I am not opposed to flood control. . . .

MR. [CLIFTON A.] WOODRUM of Virginia: Mr. Chairman, I am opposed to the motion offered by the gentleman from Michigan, and I ask recognition.

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. TARVER: Mr. Chairman, the technical motion to strike out the enacting clause of course entitles its proponent to 5 minutes and its opponent to 5 minutes, but if the gentleman from Virginia is recognized the entire 10 minutes will be consumed in argument against the amendment which is now pending, while other members of the committee are limited to a minute and a half each. At least half of that 10 minutes, 5 minutes, ought to be given to the proponents of the amendment.

THE CHAIRMAN: The Chair cannot anticipate what the gentleman's argument will be. Besides, the gentleman from Virginia has said he is opposed to the motion offered by the gentleman from Michigan.

MR. TARVER: He is opposed to the motion and also to the amendment.

THE CHAIRMAN: The gentleman from Virginia is recognized for 5 minutes.

### ***Recognizing Committee Member as Opponent***

**§ 12.13 In recognizing a Member in opposition to a motion that the Committee of the Whole rise and report a bill**

17. 91 CONG. REC. 11204, 11206, 79th Cong. 1st Sess.

**back to the House with the recommendation that the enacting clause be stricken, the Chair extends preference to a member of the committee handling the bill.**

On Mar. 1, 1950,<sup>(18)</sup> during consideration of H.R. 4846, relating to the National Science Foundation, Chairman Clark W. Thompson, of Texas, indicated that a member of the committee handling the bill is extended preference to oppose a motion to strike the enacting clause.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Hoffman of Michigan moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

MR. HOFFMAN of Michigan: . . . Now to save time, I ask unanimous consent to withdraw my motion.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, I object, and claim time in opposition to the motion.

MR. [CARL] HINSHAW [of California]: Mr. Chairman, I rise in opposition to the motion.

MR. [OREN] HARRIS [of Arkansas]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. HARRIS: This is a preferential motion to strike out the enacting

clause, and I believe a committee member is entitled to recognition.

THE CHAIRMAN: The gentleman is correct. The Chair recognizes the gentleman from California [Mr. Hinshaw].

### ***Recognizing Member of Opposition Party***

**§ 12.14 When no member of the committee from which a bill is reported seeks recognition in opposition to a motion to strike the enacting clause, the Chair recognizes a member of a political party other than that of the proponent of the motion.**

On Aug. 2, 1955,<sup>(19)</sup> during consideration of H.R. 7718, authorizing the Capital Transit Company to surrender its franchise, Chairman Aime J. Forand, of Rhode Island, recognized a member from the Democratic Party, Elijah L. Forrester, of Georgia, to speak in opposition to a motion to strike the enacting clause. The Member who offered the motion, Clare E. Hoffman, of Michigan, and the Member who sought but was denied recognition, Donald W. Nicholson, of Massachusetts, were Republicans. No member of the committee which reported the bill sought recognition to oppose the motion.

MR. HOFFMAN of Michigan: Mr. Chairman, I offer a motion.

18. 96 CONG. REC. 2597, 2598, 81st Cong. 2d Sess.

19. 101 CONG. REC. 12997, 84th Cong. 1st Sess.

The Clerk read as follows:

Mr. Hoffman of Michigan moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken. . . .

After Mr. Hoffman spoke in support of his motion and asked unanimous consent to withdraw his motion, the following proceedings occurred:

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I object, and I rise in opposition to the preferential motion.

Mr. Forrester rose and Mr. Nicholson rose.

THE CHAIRMAN: For what purpose does the gentleman from Georgia rise?

MR. NICHOLSON: Mr. Chairman, I rise to make a point of order. Two of us were seeking recognition here.

THE CHAIRMAN: The Chair is inclined to be fair. One Member on the Republican side had just spoken and therefore the Chair considered the gentleman on the other side of the aisle was entitled to recognition.

MR. NICHOLSON: I am glad the Chairman is willing to be fair.

THE CHAIRMAN: The gentleman from Georgia [Mr. Forrester] is recognized.

### ***Speaker as Opponent***

#### **§ 12.15 The Speaker took the floor in opposition to a motion to strike out the enacting clause of a bill.**

On Mar. 4, 1952,<sup>(20)</sup> during consideration of H.R. 5904, the Na-

20. 98 CONG. REC. 1829, 1830, 82d Cong. 2d Sess.

tional Security Training Corps Act, Speaker Sam Rayburn, of Texas, took the floor to debate a motion to strike the enacting clause of a bill. Speaker Rayburn opposed the motion on the ground that it would ultimately result in recommittal of the bill to committee.

THE CHAIRMAN:<sup>(1)</sup> The Clerk will report the motion of the gentleman from Massachusetts.

The Clerk read as follows:

Mr. [William H.] Bates of Massachusetts moves that the Committee on now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out. . . .

[After debate in favor of the motion]

MR. RAYBURN: Mr. Chairman, I trust that you will not think I am speaking out of turn because I am trying to bring you the counsel of a very old friend. . . .

How many years of study have we had on this subject? I think I appointed Mr. Cliff Woodrum, of Virginia, some years ago to begin the study of this matter. The present Committee on Armed Services has taken thousands of pages of testimony and heard everybody pro and con who wanted to be heard. Why send this back for further study? Do we not have the fortitude, do we not have the courage to meet the issue today? Now is the time to meet this issue, because probably we shall never have an opportunity this year or maybe in several years to come.

1. Jere Cooper (Tenn.).

Strike the enacting clause out. Of course, as the gentleman from Massachusetts said, it is a parliamentary move to get back into the House of Representatives and then to make a motion to recommit. '

Are we not willing, do we not have judgment enough, do we doubt our ability to pass on amendments and pass on the fundamental issues here presented? If we are not ready today, when will we be ready? . . .

So let us vote down the motion in committee. Let us proceed in an orderly way and try to amend this bill. Let us not escape our responsibility, and that is what we would be doing, and whether it is amended or not, when it is adopted and the final outcome is before us, then is the time for men of judgment, men of reason, men of capacity to vote on this bill and not until that time.

THE CHAIRMAN: The question is on the motion offered by the gentleman from Massachusetts [Mr. Bates].

MR. [CARL] VINSON [of Georgia]: Mr. Chairman, on that I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Kilday and Mr. Bates of Massachusetts.

The Committee divided; and the tellers reported that there were—ayes 167, noes 196.

So the motion was rejected.

### ***Effect of Recognizing Objection to Withdrawal of Motion***

#### **§ 12.16 Recognition of a Member to object to a unanimous consent request for the withdrawal of a motion in the**

#### **Committee of the Whole to strike out the enacting clause does not extend recognition to speak in opposition to the motion.**

On Mar. 1, 1950,<sup>(2)</sup> during consideration of H.R. 4846, regarding the National Science Foundation, Chairman Clark W. Thompson, of Texas, ruled on the effect of extending recognition to object to a unanimous-consent request to withdraw a motion to strike the enacting clause.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Hoffman of Michigan moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

MR. HOFFMAN: . . . Now, to save time, I ask unanimous consent to withdraw my motion.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, I object, and claim time in opposition to the motion.

MR. [CARL] HINSHAW [of California]: Mr. Chairman, I rise in opposition to the motion.

MR. [OREN] HARRIS [of Arkansas]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. HARRIS: This is a preferential motion to strike out the enacting

2. 96 CONG. REC. 2597, 2598, 81st Cong. 2d Sess.

clause, and I believe a committee member is entitled to recognition.

THE CHAIRMAN: The gentleman is correct. The Chair recognizes the gentleman from California [Mr. Hinshaw].

MR. CASE of South Dakota: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. CASE of South Dakota: The gentleman from South Dakota was recognized, was he not?

THE CHAIRMAN: The gentleman was recognized by the Chair to make an objection, but not to speak.

### § 13. Debate

Debate on a motion to rise and report with the recommendation that the enacting clause be stricken out is limited to five minutes in favor thereof and five minutes in opposition.<sup>(3)</sup>

Where debate on an amendment and all amendments thereto has been fixed by a limitation of time for debate to a certain number of minutes, as distinguished from a limitation of debate on a bill and all amendments or a limitation to a time certain by the clock, the time used in debating the preferential motion to rise and report with the recommendation that the enacting clause be stricken out (five minutes for, five minutes against) does not come out of the limitation.<sup>(4)</sup>

3. § 13.1, *infra*.

4. See § 13.5, *infra*.

On the other hand, where time for debate on an amendment is limited to a time certain, or where a time limitation is applied to debate on the bill itself and all amendments thereto, the 10 minutes permitted for debate on such preferential motion comes out of the time remaining under the limitation and reduces the time which may be allocated to Members wishing to speak.<sup>(5)</sup>

*Parliamentarian's Note:* Although no time would be permitted for debate on the preferential motion after arrival of the time designated in an agreement limiting debate on a bill and all amendments thereto,<sup>(6)</sup> a full 10 minutes of debate on the preferential motion would be allowed as long as that much time remained under such an agreement. This amount of time would be available to the proponent and opponent of the preferential motion notwithstanding an allocation of less than five minutes' time to each Member who had sought

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See also §§ 12.8–12.10, *supra*, for precedents which relate to offering this motion to secure debate time, and § 15, *infra*, for precedents which relate to consideration and debate in the Committee generally.

5. See §§ 13.6 and 13.7, *infra*.

6. See § 13.7, *infra*.

time to debate the bill and amendments under that agreement.

### ***Duration***

#### **§ 13.1 Debate on a preferential motion that the Committee rise and report with the recommendation that the enacting clause be stricken is limited to 10 minutes, five minutes to be apportioned among those in favor and five minutes to be apportioned among those in opposition.**

On May 6, 1970,<sup>(7)</sup> during consideration of H.R. 17123, the military procurement authorization for 1970, Chairman Daniel D. Rostenkowski of Illinois, ruled as to the time for debate on a preferential motion that the Committee of the Whole rise and report a bill to the House with a recommendation that the enacting clause be stricken.

MR. [THOMAS P.] O'NEILL [Jr.] of Massachusetts: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. O'Neill of Massachusetts moves that the Committee do now rise and report the bill back to the

House with the recommendation that the enacting clause be stricken out.

MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. RIVERS: How much time is allocated to the gentleman from Massachusetts and do I have any time during which to discuss the motion?

THE CHAIRMAN: Under the preferential motion the gentleman from Massachusetts is recognized for 5 minutes.

MR. RIVERS: Do I get 5 minutes to speak in opposition to the motion?

THE CHAIRMAN: The gentleman from South Carolina will be recognized for 5 minutes to speak in opposition to the motion.

MR. [SAM M.] GIBBONS [of Florida]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. GIBBONS: Mr. Chairman, I just want to find out what my rights are in this matter. The gentleman from Massachusetts (Mr. O'Neill) has submitted a preferential motion, and has received 5 minutes time to discuss it. Now, do all the opponents and proponents on that motion have 5 minutes?

THE CHAIRMAN: The Chair will state that the opponents to the motion are entitled to 5 minutes.

MR. GIBBONS: They are entitled to 5 minutes each?

THE CHAIRMAN: The Chair will state that the opponents are entitled to only one 5 minutes of rebuttal.

#### **§ 13.2 On a motion to rise and report a bill with the rec-**

7. 116 CONG. REC. 14445, 14451, 91st Cong. 2d Sess. See 98 CONG. REC. 1829, 1830, 82d Cong. 2d Sess., Mar. 4, 1952, for another example of this principle.

**ommendation that the enacting clause be stricken out in the Committee of the Whole, two five-minute speeches are permitted, and the Chair does not recognize extensions of this time.**

On Sept. 29, 1966,<sup>(8)</sup> during consideration of H.R. 15111, the Economic Opportunity Act Amendments of 1966, Chairman Daniel J. Flood, of Pennsylvania, refused to entertain a unanimous-consent request for an extension of time on a motion to rise and report a bill with the recommendation that the enacting clause be stricken out.

MR. [PAUL A.] FINO [of New York]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Fino moves that the Committee do now rise and report the bill to the House with the recommendation that the enacting clause be stricken out.

MR. [WILLIAM H.] AYRES [of Ohio]: Mr. Chairman, I ask unanimous consent that the gentleman, in view of the interest in this, be given 5 additional minutes.

THE CHAIRMAN: On a preferential motion, for which the proponent has 5

minutes and for which one opponent has 5 minutes, at which time the motion is put to the Committee, it is not in order.

The gentleman from New York [Mr. Fino] is recognized for 5 minutes.

**§ 13.3 On a motion to rise and report a bill with the recommendation that the enacting clause be stricken out in the Committee of the Whole, only two five-minute speeches may be permitted notwithstanding the fact that the second Member, recognized in opposition to the motion, spoke in favor thereof.**

On Mar. 18, 1960,<sup>(9)</sup> Chairman Francis E. Walter, of Pennsylvania, refused to recognize a Member to speak in opposition to a motion to strike out the enacting clause after two five-minute speeches had been made, although the second speaker, who had been recognized in opposition to the motion, spoke in favor of it.

The Clerk read as follows:

Mr. [Paul C.] Jones of Missouri moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

MR. JONES of Missouri: Mr. Chairman, this motion is made in all sincerity. . . .

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Chairman, I rise in opposition to the pro forma amendment.

8. 112 CONG. REC. 24442, 89th Cong. 2d Sess. See 107 CONG. REC. 20298, 87th Cong. 1st Sess., Sept. 19, 1961; and 97 CONG. REC. 8371, 8372, 82d Cong. 1st Sess., July 18, 1951, for other examples of this principle.

9. 106 CONG. REC. 6026, 6027, 86th Cong. 2d Sess.

Mr. Chairman, of course I am not in opposition, but I wanted to point out to the gentleman from Missouri [Mr. Jones] who has made a very clear and concise statement about the confusion that we find ourselves in that in these 7 days of debate we have not reached consideration of the bill that the Committee on the Judiciary reported out. We have been laboring over amendments that have been offered, which were never considered or voted upon by the Committee on the Judiciary. . . .

The motion of the gentleman from Missouri should prevail.

THE CHAIRMAN: The time of the gentleman from Mississippi [Mr. Colmer] has expired.

MR. [CLARK E.] HOFFMAN of Michigan: Mr. Chairman, a point of order. I seek recognition in opposition to the amendment on the ground that the gentleman from Mississippi did not talk against the motion.

THE CHAIRMAN: The 5 minutes for the preferential motion and the 5 minutes against the motion have expired.

The question is on the motion offered by the gentleman from Missouri [Mr. Jones].

[The motion was rejected.]

### ***Limitation of Time for Debate on Amendments; Effects***

**§ 13.4 Despite a limitation of time for debate on an amendment and all amendments thereto to a time certain and the subsequent allocation of less than five minutes' time to each Member, a full 10**

**minutes of debate, five for and five against, may still be demanded on a preferential motion that the Committee rise and report with the recommendation that the enacting clause be stricken.**

On May 6, 1970,<sup>(10)</sup> during consideration of H.R. 17123, the military procurement authorization, 1970, Chairman Daniel D. Rostenkowski, of Illinois, indicated that 10 minutes of debate on a preferential motion that the Committee of the Whole rise and report a bill with the recommendation that the enacting clause be stricken may be demanded despite a limitation of time for debate on an amendment and all amendments thereto to a time certain and the subsequent allocation of less than five minutes to each Member.

MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Chairman, I move that all debate on the Reid of New York amendment and all amendments thereto close at 5 o'clock.

The question was taken.

MR. RIVERS: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Rivers and Mr. Burton of California.

The Committee divided, and the tellers reported that there were—ayes 147, noes 82.

10. 116 CONG. REC. 14445, 14451, 14452, 91st Cong. 2d Sess.

So the motion was agreed to.

THE CHAIRMAN: The Chair has noted the names of Members standing and seeking recognition under the limitation of time.

The Chair recognizes the gentleman from Texas (Mr. Eckhardt). . . .<sup>(11)</sup>

After debate by several Members under the allocated time the following proceedings occurred:

MR. [THOMAS P.] O'NEILL [Jr.] of Massachusetts: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. O'Neill of Massachusetts moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

MR. RIVERS: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. RIVERS: How much time is allocated to the gentleman from Massachusetts and do I have any time during which to discuss the motion?

THE CHAIRMAN: Under the preferential motion the gentleman from Massachusetts is recognized for 5 minutes.

11. Note: Where a limitation on debate to a time certain is agreed to under the five-minute rule, the Chair usually notes the names of those Members who indicate their desire to speak by standing, and equally divides the time between those Members, although the division of time and recognition is largely in the discretion of the Chair. See Ch. 29 §§22, 79, *infra*.

MR. RIVERS: Do I get 5 minutes to speak in opposition to the motion?

THE CHAIRMAN: The gentleman from South Carolina will be recognized for 5 minutes to speak in opposition to the motion.

MR. O'NEILL of Massachusetts: Mr. Chairman, I do this in protest to cutting off the debate. Under this procedure we are allocated only 45 seconds. It takes more time than 45 seconds to say "Hello."

MR. [SAM M.] GIBBONS [of Florida]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. GIBBONS: Mr. Chairman, I just want to find out what my rights are in this matter. The gentleman from Massachusetts (Mr. O'Neill) has submitted a preferential motion, and has received 5 minutes' time to discuss it. Now, do all the opponents and proponents on that motion have 5 minutes?

THE CHAIRMAN: The Chair will state that the opponents to the motion are entitled to 5 minutes.

MR. GIBBONS: They are entitled to 5 minutes each?

THE CHAIRMAN: The Chair will state that the opponents are entitled to only one 5 minutes of rebuttal.

**§ 13.5 Where the Committee has limited debate on an amendment to a certain number of minutes, the time consumed on a motion to strike the enacting clause is not taken from the time fixed for debate on the amendment previously offered.**

On Apr. 28, 1953,<sup>(12)</sup> during consideration of H.R. 4828, the Department of the Interior appropriations bill, 1954, Chairman J. Harry McGregor, of Ohio, stated that the time consumed on a motion to strike the enacting clause is not taken from the time fixed for debate on a previously offered amendment.

MR. [BEN F.] JENSEN [of Iowa]: Mr. Chairman, I ask unanimous consent that all debate on this amendment, and all amendments thereto, close in 1 hour.

THE CHAIRMAN: Is there objection to the request of the gentleman from Iowa?

There was no objection.

THE CHAIRMAN: The Chair advises each Member will be allowed approximately 3 minutes. . . .

MR. [CLARK E.] HOFFMAN of Michigan: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Hoffman of Michigan moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken. . . .

Following debate on the motion the following proceedings occurred:

THE CHAIRMAN: . . . All time has expired.

MR. [HERMAN P.] EBERHARTER [of Pennsylvania]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. EBERHARTER: The time on the preferential motion offered by the gentleman from Michigan is not taken out of the time already allotted for debate on this subject?

THE CHAIRMAN: That is correct.

**§ 13.6 Where time for debate on an amendment is limited to a time certain, the 10 minutes permitted for debate on a preferential motion that the Committee rise and report with the recommendation that the enacting clause be stricken comes out of the time remaining under the limitation and reduces the time which may be allocated to Members wishing to speak.**

On May 6, 1970,<sup>(13)</sup> the Committee of the Whole agreed to a motion that all debate on a pending amendment and amendments thereto close at a time certain, 5 o'clock. During debate under the limitation, Mr. Thomas P. O'Neill, Jr., of Massachusetts, offered the preferential motion that the Committee rise and report back the bill with the recommendation that the enacting clause be stricken. Chairman Daniel D. Rostenkowski, of Illinois, stated in re-

12. 99 CONG. REC. 4125-28, 83d Cong. 1st Sess.

13. 116 CONG. REC. 14452, 91st Cong. 2d Sess.

sponse to a parliamentary inquiry that regardless of the allocation by the Chair of time remaining under the limitation, the motion could be debated for 10 minutes, five in favor of and five against the motion.

The Chairman then answered a further parliamentary inquiry on the charging of the time on the motion to the time remaining under the limitation:

MR. [ROBERT L.] LEGGETT [of California]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. LEGGETT: Mr. Chairman, considering the fact that a time limitation has now been set in relation to today at 5 o'clock, does the time of the debate on the motion that we have already heard, come out of the time on the amendments?

THE CHAIRMAN: The time will come out of the time of those who are participating in debate.

MR. LEGGETT: Mr. Chairman, a further parliamentary inquiry. If we chose to rise right now and come back tomorrow, then would there be any time limitation on debate?

THE CHAIRMAN: There would be no further debate.

The time was set at 5 o'clock.

The question is on the motion offered by the gentleman from Massachusetts (Mr. O'Neill).

The motion was rejected.

### ***Limitation of Time for Debate on Bill and Amendments; Effect***

**§ 13.7 A preferential motion that the Committee of the Whole rise with the recommendation that the enacting clause be stricken out is not debatable after all time for debate on the bill and all amendments thereto has expired.**

On July 9, 1965,<sup>(14)</sup> during consideration of H.R. 6400, the Voting Rights Act of 1965, Chairman Richard Bolling, of Missouri, refused to permit a preferential motion to be made because the time to conclude all debate on the bill and amendments had arrived.

THE CHAIRMAN: All time has expired.

MR. GERALD R. FORD [of Michigan]: Mr. Chairman, I was on the list, but the time has expired. I have a preferential motion.

THE CHAIRMAN: All debate is concluded even with a preferential motion. The agreement was that all debate would conclude at 7:20 p.m. The hour is now 7:20 p.m. There is no further time.

The question is on the committee amendment, as amended.

*Parliamentarian's Note:* Where debate on an amendment and all amendments thereto has been

14. 111 CONG. REC. 16280, 89th Cong. 1st Sess.

fixed by a limitation of time for debate, and not a limitation to a time certain by the clock, the time used in debating the preferential motion to strike the enacting clause (five minutes for, five minutes against) does not come out of the limitation; but where the limitation of debate is on the bill and all amendments, time consumed on the preferential motion comes out of the remaining time in either case.

### *Scope of Debate*

#### **§ 13.8 On a motion that the Committee of the Whole rise and report back to the House with the recommendation that the enacting clause be stricken out, the merits of the entire bill are open to debate.**

On May 25, 1967,<sup>(15)</sup> during consideration of S. 1432, amending the Universal Military Training and Service Act, Chairman Robert L. F. Sikes, of Florida, stated that the entire bill is open for debate on a motion that the Committee of the Whole rise and report a bill back to the House with the rec-

ommendation that the enacting clause be stricken out.

MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Chairman, I move that all debate on the pending amendment and all amendments thereto close in 15 minutes.

THE CHAIRMAN: The question is on the motion of the gentleman from South Carolina.

The motion was agreed to. . . .

MR. [WILLIAM F.] RYAN [of New York]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Ryan moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

THE CHAIR: The gentleman from New York is recognized for 5 minutes in support of his motion.

MR. RYAN: Mr. Chairman and Members of the Committee, I rise to support the gentleman from Illinois [Mr. Rumsfeld], and to echo the sentiments of Mr. Ottinger, of New York.

MR. [CRAIG] HOSMER [of California]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state his point of order.

MR. HOSMER: The gentleman has made a motion that the Committee rise, and he was recognized to speak in support of his motion. He now states that he is speaking in support of the amendment that is before the House. My point of order is that his text is out of order. It is not germane.

THE CHAIRMAN: The Chair is constrained to state that this motion would open the entire field of the bill,

15. 113 CONG. REC. 14145-48, 90th Cong. 1st Sess. See 101 CONG. REC. 5774, 84th Cong. 1st Sess., May 5, 1955; and 81 CONG. REC. 373, 75th Cong. 1st Sess., Jan. 22, 1937, for other examples of this principle.

and therefore the Chair holds that the gentleman is proceeding in order.

**§ 13.9 Debate on a motion to rise and report with the recommendation that the enacting clause be stricken is not limited to the motion but may go to the entire bill under consideration.**

On Nov. 15, 1967,<sup>(16)</sup> during consideration of S. 2388, the Economic Opportunity Act Amendments of 1967, Chairman John J. Rooney, of New York, ruled on the effect on debate of the preferential motion to rise and report a bill with a recommendation that the enacting clause be stricken.

MR. [CHARLES E.] GOODELL [of New York]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Goodell moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

THE CHAIRMAN: The gentleman from New York [Mr. Goodell] is recognized for 5 minutes.

16. 113 CONG. REC. 32679, 90th Cong. 1st Sess. See, for example, 97 CONG. REC. 8476, 8477, 82d Cong. 1st Sess., July 19, 1951; 95 CONG. REC. 4402, 81st Cong. 1st Sess., Apr. 12, 1949; 94 CONG. REC. 8679, 80th Cong. 2d Sess., June 17, 1948; and 93 CONG. REC. 4087, 80th Cong. 1st Sess., Apr. 25, 1947, for other illustrations of this principle.

MR. [JOHN E.] MOSS [Jr., of California]: Mr. Chairman, the gentleman is not proceeding in order—he is not discussing the preferential motion.

MR. GOODELL: I am leading up to that.

MR. MOSS: Mr. Chairman, I ask that the gentleman be instructed to proceed in order.

THE CHAIRMAN: The Chair will state that the preferential motion opens up the whole bill for discussion, and the gentleman is in order.

**§ 13.10 Debate on a preferential motion that the Committee rise with the recommendation that the enacting clause be stricken may go to any part of the bill and is not confined to the proposition pending when the motion is offered.**

On June 18, 1970,<sup>(17)</sup> during consideration of H.R. 17070, the Postal Reform Act of 1970, Chairman Charles M. Price, of Illinois, stated that debate on a motion that the Committee of the Whole rise with the recommendation that the enacting clause be stricken may go to any part of the bill.

MR. [FLETCHER] THOMPSON of Georgia: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Thompson of Georgia moves that the Committee do now rise and

17. 116 CONG. REC. 20440, 91st Cong. 2d Sess.

report the bill back to the House with the recommendation that the enacting clause be stricken out.

MR. THOMPSON of Georgia: Mr. Chairman, I regret having to take this maneuver in order to obtain this time. I certainly hope that the Members will not vote in favor of this particular motion for the House to rise and to strike the enacting clause.

The subject we are considering today is something that does require extensive debate. It is simply a question as to whether or not we are going to have a fragmented country or a uniform country.

The gentleman from Florida quoted the phrase, "equal pay for equal work." This certainly is the question, equal pay for equal work.

MR. [EDWARD J.] DERWINSKI [of Illinois]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state his point of order.

MR. DERWINSKI: Mr. Chairman, I make the point of order that the gentleman is not directing his remarks to his amendment.

THE CHAIRMAN: The gentleman from Georgia has offered a motion to strike out the enacting clause. Therefore, the gentleman may speak on the whole bill.

***Pro Forma Amendments During Pendency of Motion to Rise and Recommend Striking Enacting Clause***

**§ 13.11 Debate on a motion to rise and report with the recommendation that the enacting clause be stricken out is**

**limited to those speaking in favor thereof or in opposition thereto, and no pro forma amendments are recognized while such motion is pending.**

On May 5, 1955,<sup>(18)</sup> during consideration of H.R. 12, providing price supports for basic commodities, Chairman Robert L. F. Sikes, of Florida, indicated that debate on a motion to strike the enacting clause is limited to those in favor or in opposition, with no pro forma amendments being permitted during the pendency of such a motion.

MR. [THOMAS G.] ABERNETHY [of Mississippi]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Abernethy moves that the committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

THE CHAIRMAN: The gentleman from Mississippi is recognized for 5 minutes in support of his motion. . . .

For what purpose does the gentleman from New York [Mr. Anfuso] rise?

MR. [VICTOR L.] ANFUSO: To strike out the last word.

THE CHAIRMAN: The gentleman cannot be recognized for that purpose; there is a preferential motion pending.

18. 101 CONG. REC. 5774, 84th Cong. 1st Sess. See 103 CONG. REC. 13385, 13386, 85th Cong. 1st Sess., Aug. 1, 1957, for another example of this principle.

## § 14. Renewal of Motion

### *Generally*

#### **§ 14.1 Only one motion recommending that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken is in order on the same legislative day unless the text of the bill is changed.**

On Mar. 16, 1948,<sup>(19)</sup> during consideration of S. 2182, extending rent controls, Chairman Walter C. Ploeser, of Missouri, made reference to the general rule against permitting a second motion to strike the enacting clause.

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Celler moves that the Committee do now rise and report S. 2182 back to the House with the recommendation that the enacting clause be stricken therefrom. . . .

THE CHAIRMAN: The time of the gentleman from California [Mr. Jackson] has expired.

19. 94 CONG. REC. 2956, 80th Cong. 2d Sess. See, for example, 99 CONG. REC. 9563, 83d Cong. 1st Sess., July 22, 1953; 97 CONG. REC. 8970, 82d Cong. 1st Sess., July 26, 1951; and 95 CONG. REC. 4414, 81st Cong. 1st Sess., Apr. 12, 1949, for other illustrations of this principle.

The question is on the motion offered by the gentleman from New York [Mr. Celler].

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. RANKIN: As I understand, only one motion of this kind can be offered to a bill.

THE CHAIRMAN: Unless the text of the bill is changed.

#### **§ 14.2 A second motion to strike out the enacting clause is not entertained in the absence of any material modification of the bill.**

On Mar. 26, 1965,<sup>(20)</sup> during consideration of H. R. 2362, the elementary and secondary education bill of 1965, one motion to strike the enacting clause having been defeated, Chairman Richard Bolling, of Missouri, indicated the circumstances under which a second motion to strike out the enacting clause would be in order.

MR. GEORGE W. ANDREWS [of Alabama]: Mr. Chairman, I offer a preferential motion.

MR. [ADAM C.] POWELL [of New York]: Mr. Chairman, I move that all

20. 111 CONG. REC. 6101, 89th Cong. 1st Sess.

See also 108 CONG. REC. 11369, 87th Cong. 2d Sess., June 21, 1962; and 96 CONG. REC. 2235, 81st Cong. 2d Sess., Feb. 22, 1950 (Calendar Wednesday).

debate on this section close in 5 minutes.

THE CHAIRMAN: Will the chairman suspend for a minute?

MR. GEORGE W. ANDREWS: Mr. Chairman, I offer a preferential motion.

THE CHAIRMAN: Will the gentleman state his preferential motion?

MR. GEORGE W. ANDREWS: That the Committee rise and strike out the enacting clause.

THE CHAIRMAN: The Chair will have to advise the gentleman from Alabama that that motion will not be in order again until substantial change is made in the bill.

**§ 14.3 A second motion to strike out the enacting clause is in order on a bill if a substantial change has been made in the bill since the disposal of the first motion.**

On Apr. 6, 1935,<sup>(21)</sup> during consideration of H.R. 5529, to prevent war profiteering, Chairman Lindsay C. Warren, of North Carolina, overruled a point of order against the renewal on the same day of a motion to strike the enacting clause, noting that a substantial change had been made in the bill since disposition of the previous motion.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I move to strike out the enacting clause.

21. 79 CONG. REC. 5181, 74th Cong. 1st Sess. See 79 CONG. REC. 12430, 74th Cong. 1st Sess., Aug. 3, 1935, for another example of this principle.

MR. [LISTER] HILL of Alabama: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman from Mississippi will send to the Clerk's desk his motion.

MR. HILL of Alabama: Mr. Chairman, I make the point of order that the motion is dilatory. That motion was voted down yesterday. . . .

THE CHAIRMAN: The Chair overrules the point of order, believing that there has been a substantial change made in the bill since the motion to strike was made. The gentleman from Mississippi moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

*Parliamentarian's Note:* The motion can be renewed on the following legislative day regardless of modification of the bill. See § 14.8, *infra*.

***After Amendment***

**§ 14.4 A second motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken out is in order if the bill has been amended since disposition of the first motion.**

On June 18, 1970<sup>(22)</sup> during consideration of H.R. 17070, the Post-

22. 116 CONG. REC. 20481, 91st Cong. 2d Sess. See 86 CONG. REC. 1899, 76th Cong. 3d Sess., Feb. 23, 1940; 84

al Reform Act of 1970, Chairman Charles M. Price, of Illinois, stated that a second motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken is in order if business [the adoption of amendments] has transpired since the first such motion.

MR. [JAMES C.] WRIGHT [Jr., of Texas]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Wright moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

MR. [ROBERT J.] CORBETT [of Pennsylvania]: Mr. Chairman, a point of order. Has not such a motion already been introduced and defeated?

THE CHAIRMAN. It has been, but other business has transpired since the first motion to rise and strike the enacting clause. The motion is in order, and the gentleman from Texas is recognized for 5 minutes.

### ***After Rejection of Amendment***

#### **§ 14.5 A second motion to strike out the enacting clause is not in order if the only action of the Committee**

CONG. REC. 7382, 76th Cong. 1st Sess., June 16, 1939; and 82 CONG. REC. 1119, 75th Cong. 2d Sess., Dec. 8, 1937, for other examples of this principle.

#### **of the Whole in the interim has been the rejection of a proposed amendment to the bill.**

On June 21, 1962,<sup>(1)</sup> during consideration of H.R. 11222, the food and agricultural bill of 1962, Chairman Francis E. Walter, of Pennsylvania, refused to entertain a second motion to strike out the enacting clause because the only action in the interim had been rejection of a proposed amendment to the bill.

THE CHAIRMAN: The time for debate on title IV has expired.

MR. [ANCHER] NELSEN [of Minnesota]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Nelsen moves that the Committee do now rise and report H.R. 11222 back to the House with the recommendation that the enacting clause be stricken. . . .

THE CHAIRMAN: The question is on the preferential motion offered by the gentleman from Minnesota.

The motion was rejected.

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, I offer an amendment. . . .

THE CHAIRMAN: . . . The Clerk will report the amendment offered by the gentleman from New York.

The Clerk read as follows: . . .

THE CHAIRMAN: The question is on the amendment offered by the gentleman from New York [Mr. Stratton].

1. 108 CONG. REC. 11359, 11360, 11369, 11370, 87th Cong. 2d Sess.

The amendment was rejected. . . .

MR. [NEAL] SMITH of Iowa: Mr. Chairman, I have an amendment at the Clerk's desk which I offer at this time.

THE CHAIRMAN: The Clerk will report the amendment.

MR. [ROBERT J.] DOLE [of Kansas]: Mr. Chairman, I have a preferential motion.

THE CHAIRMAN: The motion is not in order because no action has been taken since the last identical motion.

The Clerk will report the amendment offered by the gentleman from Iowa.

MR. DOLE: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. DOLE: We just voted on the amendment of the gentleman from New York [Mr. Stratton] and it was defeated.

THE CHAIRMAN: The amendment was defeated and did not prevail.

The Clerk will report the amendment offered by the gentleman from Iowa [Mr. Smith].

### ***After Amendment of Bill***

#### **§ 14.6 Where a bill has been amended subsequent to the rejection of a motion to strike out the enacting clause, a second motion is in order and is debatable notwithstanding a limitation of debate on the bill.**

On May 9, 1947,<sup>(2)</sup> during consideration of H.R. 2616, providing

2. 93 CONG. REC. 4974, 80th Cong. 1st Sess.

assistance to Greece and Turkey, Chairman Francis H. Case, of South Dakota, held that a motion to strike the enacting clause was in order and debatable, several amendments having been adopted since disposition of the previous motion to strike the enacting clause.

MR. [CLARK E.] HOFFMAN [of Michigan]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Hoffman moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

MR. [PETE] JARMAN [of Alabama]: Mr. Chairman, a point of order against the motion.

THE CHAIRMAN: The gentleman will state it.

MR. JARMAN: Mr. Chairman, that motion has already been made and was voted down once.

THE CHAIRMAN: There have been several amendments adopted on the bill, it has been changed since that motion was previously acted on. The Chair overrules the point of order.

MR. [JOHN M.] VORYS [of Ohio]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. VORYS: Mr. Chairman, debate is limited on the bill by action of the committee.

THE CHAIRMAN: The gentleman from Michigan has offered a preferential motion which is in order in spite of the agreement on closing debate.

***Effect of Withdrawal of Prior Motion***

**§ 14.7 After withdrawal by unanimous consent of the first such motion, a second motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken out was held in order and not dilatory.**

On May 3, 1949,<sup>(3)</sup> during consideration of H.R. 2032, the National Labor Relations Act of 1949, Chairman Jere Cooper, of Tennessee, indicated that a second motion to strike the enacting clause is in order and not dilatory where the first such motion had been withdrawn.

MR. [EUGENE] WORLEY [of Texas]: Mr. Chairman, I offer a preferential motion.

THE CHAIRMAN: The Clerk will report the motion of the gentleman from Texas.

The Clerk read as follows:

Mr. Worley moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

THE CHAIRMAN: The gentleman from Texas is recognized for 5 minutes on his motion. . . .

3. 95 CONG. REC. 5521, 5522, 5531, 81st Cong. 1st Sess.

MR. WORLEY: . . . Mr. Chairman, I ask unanimous consent to withdraw my motion.

THE CHAIRMAN: Is there objection to the request of the gentleman from Texas?

There was no objection. . . .

MR. [HALE] BOGGS of Louisiana: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Boggs of Louisiana moves that the Committee do now rise and report the bill to the House with the recommendation that the enacting clause be stricken out.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I make a point of order that that motion has just been voted down.

THE CHAIRMAN: The gentleman is mistaken. The previous motion was withdrawn by unanimous consent.

MR. [JOSEPH W.] MARTIN [JR.] of Massachusetts: Mr. Chairman, I make the point of order it is dilatory. Is the gentleman going to press his motion?

THE CHAIRMAN: The Chair overrules the point of order.

***On Another Day***

**§ 14.8 Parliamentarian's Note: A second motion to "strike the enacting clause" is in order on a subsequent legislative day, notwithstanding the fact that there has been no modification of the bill since the first preferential motion was rejected.**

On May 6, 1950,<sup>(4)</sup> during consideration of H.R. 7786, the general appropriation bill of 1951, Chairman Jere Cooper, of Tennessee, ruled that a second motion to strike out the enacting clause was in order, the first having been made on a previous day.

THE CHAIRMAN: The time of the gentleman from Texas has expired. All time on this amendment has expired.

MR. [HALE] BOGGS of Louisiana: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Boggs of Louisiana moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

MR. [ALBERT A.] GORE [of Tennessee]: Mr. Chairman, I make a point of order against the motion on the ground that it is a dilatory motion.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the further point of order against the motion that no amendment has been adopted since the last such motion was disposed of.

THE CHAIRMAN: The Chair will state that while it is true that no amendment has been adopted and there has been no alteration in the bill since the last motion to strike out the enacting clause was disposed of, nevertheless this is a different day.

The Chair is of the opinion that the point of order made by the gentleman from New York would not lie against the motion.

## D. CONSIDERATION AND DEBATE

### § 15. Generally

This division takes up the general rules relating to consideration and debate in the Committee of the Whole.<sup>(5)</sup>

When the House issues an order for the consideration of a particular bill and the manner in which it is to be considered, it ab-

solutely binds the Committee of the Whole because the Committee does not possess authority to modify such an order<sup>(6)</sup> or to set aside a rule of procedure prescribed by the House.<sup>(7)</sup> Consequently, the Committee of the Whole may not consider a different bill after the House has agreed to a motion to go into the Committee to consider

4. 96CONG. REC. 6571, 81st Cong. 2d Sess.

5. See 5 Hinds' Precedents § 5203–5256 and 8 Cannon's Precedents §§ 2548–2595 for earlier rulings. See also Ch. 29, *infra*, for further discussion of particular rules on consideration and

debate in the Committee of the Whole.

6. 4 Hinds' Precedents §§ 4712, 4713; 7 Cannon's Precedents § 786; and 8 Cannon's Precedents §§ 2321, 2322.

7. 4 Hinds' Precedents § 4713

a particular revenue or appropriation bill.<sup>(8)</sup> Neither the Chairman nor the Committee may entertain requests to alter such orders.<sup>(9)</sup>

In the rare instances when the House does not designate business to be considered in the Committee of the Whole, business may be taken up in regular order, or in such order as the Committee may determine.<sup>(10)</sup>

In the absence of a rule to the contrary, the practice governing debate in the House is followed in the Committee of the Whole.<sup>(11)</sup> Since 1841, general debate by a Member has been limited in the Committee to no more than one hour,<sup>(12)</sup> any portion of which may be yielded to another<sup>(13)</sup> who in turn may yield to a third with the consent of the Member originally holding the floor.<sup>(14)</sup> Of course, if the first Member retains control of the floor, but yields to a second Member for a question, it is the first Member who would subsequently yield to a third. On the

other hand, where a bill is being considered under a typical special order providing that time be controlled by the chairman and ranking minority member of the committee reporting the bill, the first Member may yield a block of time to a second Member, in which case the second Member may yield to a third while remaining on his feet, and permission of the first Member is not necessary.

Following the close of general debate by order of the House any Member is allowed five minutes to explain any amendment he may offer after which the Member who first obtains the floor is allowed five minutes to oppose it.<sup>(15)</sup> A Member proposing an amendment may, by unanimous consent, offer an amendment to such amendment during the five minutes allotted him under the rule but may not thereby secure additional time for debate.<sup>(16)</sup> Following five minutes of debate on an amendment and five minutes in opposition, a Member may obtain five minutes for debate by offering the pro forma amendment "to strike the last word" where an actual amendment is not contemplated;<sup>(17)</sup> but a Member who

8. 4 Hinds' Precedents § 4734.

9. 8 Cannon's Precedents §§ 2550–2552.

10. Rule XXIII clause 4, *House Rules and Manual* § 869 (1979). See 4 Hinds' Precedents § 4729, for a discussion of the origin of this rule.

11. 8 Cannon's Precedents § 2553.

12. Note to Rule XXIII clause 5, *House Rules and Manual* § 870 (1979).

13. 8 Cannon's Precedents § 2553.

14. 8 Cannon's Precedents § 2553.

15. Rule XXIII clause 5, *House Rules and Manual* § 870 (1979).

16. 8 Cannon's Precedents § 2562.

17. Note to Rule XXIII clause 5, *House Rules and Manual* § 873 (1979); 5

has occupied five minutes on a pro forma amendment may not lengthen his time by making another pro forma amendment.<sup>(18)</sup>

Only the Chairman may recognize Members for debate.<sup>(19)</sup> When time for debate under the five-minute rule is limited in Committee of the Whole without provision for its control, the Chairman divides the time, where practicable, between those favoring and those opposing the proposition,<sup>(1)</sup> or among all Members indicating a desire to speak. Nonetheless, on one occasion, when no one claimed the floor in opposition after a speech in favor of an amendment under the five-minute rule, the Chairman recognized another Member favoring the amendment.<sup>(2)</sup> In recognizing for debate on an appeal in the Committee of the Whole the Chairman alternates between those favoring and those opposing.<sup>(3)</sup>

Hinds' Precedents §5778. See §§15.9, 15.10, *infra*, which relate to speaking twice on an amendment.

**18.** Note to Rule XXIII clause 5, *House Rules and Manual* §873 (1979); 5 Hinds' Precedents §5222; and 8 Cannon's Precedents §2560.

**19.** 5 Hinds' Precedents §5003.

**1.** 8 Cannon's Precedents §2558. See also §16.6, *infra*.

**2.** 8 Cannon's Precedents §2557.

**3.** 8 Cannon's Precedents §3455. See also §15.13, *infra*, relating to time and scope of debate on appeal.

A Member recognized in the Committee of the Whole to debate an amendment under the five-minute rule may yield to another Member while remaining on his feet, but may not yield designated amounts of time to another Member.<sup>(4)</sup>

The Committee of the Whole by majority vote may close debate upon any section or paragraph or amendments thereto anytime after reading thereof has been completed and debate thereon under the five-minute rule has commenced. Although agreement to the motion to close debate does not preclude further amendment, it does preclude further debate on those amendments.<sup>(5)</sup>

The motion to close debate is not in order until debate has begun,<sup>(6)</sup> which means after one speech, however brief;<sup>(7)</sup> the motion may be made before expiration of the full five minutes.<sup>(8)</sup>

The House, as well as the Committee of the Whole, may close the five-minute debate after it has

**4.** §15.5, *infra*. See 5 Hinds' Precedents §5035–5037.

**5.** Rule XXIII clause 6, *House Rules and Manual* §874 (1979).

**6.** §15.12, *infra*; note to Rule XXIII clause 6, *House Rules and Manual* §874 (1979).

**7.** 5 Hinds' Precedents §5226; 8 Cannon's Precedents §2573.

**8.** 8 Cannon's Precedents §2573.

begun although it rarely exercises this right.<sup>(9)</sup>

### ***Consideration of Unfinished Business***

#### **§ 15.1 Where the Committee of the Whole rises before the time for debate expires, a limitation of a certain number of minutes (rather than by the clock) having been imposed under the five-minute rule, debate continues when the Committees resume its deliberations.**

On June 16, 1948,<sup>(10)</sup> during consideration of H.R. 6401, the Selective Service Act of 1948, Chairman Francis H. Case, of South Dakota, indicated that where time for debate has been fixed on an amendment in the Committee of the Whole and the Committee rises before the time expires, debate continues when the Committee resumes its deliberations.

MR. [WALTER G.] ANDREWS of New York: Mr. Chairman, in view of the fact that two or three Members who have time are not here, I move that the Committee do now rise.

9. Note to Rule XXIII clause 6, *House Rules and Manual* §874 (1979); 5 Hinds' Precedents §§5229, 5231.

10. 94 CONG. REC. 8521, 80th Cong. 2d Sess.

THE CHAIRMAN: The question is on the motion offered by the gentleman from New York [Mr. Andrews].

MR. [GEORGE A.] SMATHERS [of Florida]: Mr. Chairman, I would like to be heard on that.

THE CHAIRMAN: That is not a debatable motion. It is always within the discretion of the gentleman handling the bill to move that the Committee rise.

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. MARCANTONIO: Mr. Chairman, under the arrangement entered into limiting debate on this amendment, will the Members who were scheduled to be recognized be recognized when the Committee resumes its deliberations?

THE CHAIRMAN: They will be recognized, if the Committee should vote to rise, when the Committee meets again.

MR. ANDREWS of New York: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. ANDREWS of New York: My understanding is that all those gentlemen whose names are on the list will be recognized immediately tomorrow.

THE CHAIRMAN: The statement of the gentleman from New York is correct.

#### **§ 15.2 A question as to the future day when the Committee will continue the consideration of a bill is for the Speaker and the House to decide and not the Chairman of the Committee of the Whole.**

On Apr. 26, 1948,<sup>(11)</sup> during consideration of H.R. 2245, to repeal the tax on oleomargarine, Chairman Leslie C. Arends, of Illinois, declined to rule on the time a particular bill would again be considered in the Committee of the Whole.

MR. AUGUST H. ANDRESEN [of Minnesota]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. AUGUST H. ANDRESEN: Mr. Chairman, I understand that the Committee will rise at 4 o'clock. It is also my understanding of the rules that this Committee should meet tomorrow in order to have continuous consideration of the pending legislation.

I would like to have a ruling of the Chair as to whether or not the rules provide that a day may intervene so that this legislation may be taken up on Wednesday.

THE CHAIRMAN: The Chair may say that is a matter for the Speaker of the House and the House itself to determine. It is not something within the jurisdiction of the Chair to decide.

### ***Debate on Point of Order***

#### **§ 15.3 Debate on a point of order raised in the Committee of the Whole is within the discretion of the Chairman and must be confined to the point of order.**

On Apr. 13, 1951,<sup>(12)</sup> during consideration of S. 1, 1951 amend-

11. 94 CONG. REC. 4873, 80th 2d Sess.

12. 97 CONG. REC. 3909, 3910, 82d Cong. 1st Sess.

ments to the Universal Military Training and Service Act, Chairman Jere Cooper, of Tennessee, stated the rule governing debate on a point of order raised in Committee of the Whole.

MR. [ANTONI N.] SADLAK [of Connecticut]: Mr. Chairman, I offer an amendment.

THE CHAIRMAN: The Clerk will report the amendment, but the Chair will state that all time for debate has been exhausted.

The Clerk read as follows:

Amendment offered by Mr. Sadlak:

Page 26, following the amendment offered by Mr. Walter, insert the following: "Any citizen of a foreign country who. . . ."

MR. [CARL] VINSON [of Georgia]: I make the point of order against the amendment that it is not germane to the pending bill.

THE CHAIRMAN: Does the gentleman from Connecticut desire to be heard on the point of order?

MR. SADLAK: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. SADLAK: Mr. Chairman, how much time will be allotted to me for that purpose?

THE CHAIRMAN: That is in the discretion of the Chair. The gentleman's argument must be confined to the point of order.

### ***Yielding in Debate by Floor Managers***

#### **§ 15.4 Where general debate on a bill is under control of the**

**chairman and ranking minority member of a committee, they may yield as many times as they desire to whom they desire.**

On July 11, 1946,<sup>(13)</sup> during consideration of Senate Joint Resolution 138, the British loan bill, Chairman William M. Whittington, of Mississippi, made reference to the power to yield where general debate on a bill is under the control of the chairman and ranking minority member of a committee.

MISS [JESSIE] SUMNER of Illinois: Mr. Chairman, a parliamentary inquiry?

THE CHAIRMAN: The gentlewoman will state it.

MISS SUMNER of Illinois: The gentleman from Arkansas [Mr. Hays] and the gentleman from Texas [Mr. Patman] have spoken two or three times on this bill during general debate. Is that permissible under the rules of the House?

THE CHAIRMAN: The time is within the control of the chairman and the ranking minority member of the committee.

MISS SUMNER of Illinois: May the same person speak two or three times in general debate on the same bill?

THE CHAIRMAN: General debate on this bill has been fixed at 16 hours, the time equally divided between the chairman and the ranking minority member of the committee. They may

yield, once, twice, or as many times as they desire to whom they desire.

### ***Yielding by Member Recognized to Debate***

**§ 15.5 A Member recognized in the Committee of the Whole to debate an amendment may yield to another Member if he so desires while remaining on his feet.**

On June 22, 1945<sup>(14)</sup> during consideration of House Joint Resolution 101, extending the Price Control and Stabilization Act, Chairman Jere Cooper, of Tennessee, stated the rule authorizing a Member recognized in Committee to debate an amendment to yield to another Member. At the time, the Committee was operating under an agreement limiting debate on amendments to one hour.<sup>(15)</sup>

THE CHAIRMAN: The Chair recognizes the gentleman from Indiana [Mr. Harness].

MR. [FOREST A.] HARNESS of Indiana: Mr. Chairman, I am in favor of this amendment because I believe it will force a more common-sense administration of this law. The distinguished gentleman from Michigan [Mr. Crawford] has just made a most forceful argument in favor of the amendment, and I yield to him for his further observations.

13. 92 CONG. REC. 8694, 79th Cong. 2d Sess.

14. 91 CONG. REC. 6548, 79th Cong. 1st Sess.

15. *Id.* at p. 6543.

MR. [FRED L.] CRAWFORD: Continuing, Mr. Vinson said:

That condition has been met for war production, and that condition will be met for reconversion peace production.

MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. PATMAN: Mr. Chairman, I am not objecting to the gentleman's talking, but I want to know what the policy will be. Can one Member yield another Member this time?

THE CHAIRMAN: The gentleman from Indiana [Mr. Harness] was recognized and he yielded to the gentleman from Michigan [Mr. Crawford], which is certainly permissible.

MR. PATMAN: That is all right with me, Mr. Chairman, but I just wanted to know what the policy is.

THE CHAIRMAN: Any Member can yield to another Member, or decline to yield, as he desires.

*Parliamentarian's Note:* Mr. Crawford had consumed his allotted time for debate; when Mr. Harness was recognized immediately thereafter, he yielded to Mr. Crawford to complete his remarks. Mr. Harness stood while Mr. Crawford continued.

### ***Yielding by Member Recognized for Pro Forma Amendment***

#### **§ 15.6 A Member recognized to strike out the last word under the five-minute rule**

### **may yield to another Member.**

On Mar. 21, 1960,<sup>(16)</sup> during consideration of amendments under the five-minute rule, Chairman Francis E. Walter, of Pennsylvania, made reference to the authority of a Member recognized to strike out the last word to yield to another Member.

THE CHAIRMAN: The time of the gentleman from New York has expired.

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

MR. [CLARE E.] HOFFMAN of Michigan: I object, Mr. Chairman.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I yield to the gentleman from New York [Mr. Celler].

MR. CELLER: I thank the gentleman.

MR. HOFFMAN of Michigan: Just a minute. I make a point of order on this.

MR. CELLER: Mr. Chairman, deprivation of the State's ballot is wrong.

MR. YATES: Mr. Chairman, I am entitled to yield to the gentleman from New York.

THE CHAIRMAN: The gentleman from Illinois was recognized, and he yielded to the gentleman from New York. The gentleman from New York is continuing in order.

16. 106 CONG. REC. 6162, 86th Cong. 2d Sess.

***Extension of Time Under Hour Rule***

**§ 15.7 Where general debate in the Committee of the Whole is proceeding under the hour rule, a request that a Member's hour be extended is not in order.**

On Mar. 24, 1947,<sup>(17)</sup> during consideration under the hour rule of H.R. 2700, providing appropriations for the Department of Labor and the Federal Security Agency, Chairman Clifford R. Hope, of Kansas, declined to permit extension of time.

MR. [JOHN J.] ROONEY [of New York]: Mr. Chairman, I yield the balance of my time to the gentlewoman from New Jersey [Mrs. Norton].

MRS. [MARY T.] NORTON: Mr. Chairman, I ask unanimous consent to proceed for 10 additional minutes.

THE CHAIRMAN: The Chair regrets that the request is not in order at this time, as the time is under the control of the gentleman from New York and is restricted under the rules of the House.

MRS. NORTON: Is it not possible to get that additional time by unanimous consent? I have known it to be done in many, many other cases.

THE CHAIRMAN: That would be true under the 5-minute rule, but we are proceeding now in general debate, and under the rules of the House that is not permitted.

17. 93 CONG. REC. 2476, 80th Cong. 1st Sess.

***Speaking More Than Once in General Debate***

**§ 15.8 Members may speak in general debate on a bill as many times as they are yielded to by those in control of the debate.**

On July 11, 1946,<sup>(18)</sup> during consideration of Senate Joint Resolution 138, the British loan bill, Chairman William M. Whittington, of Mississippi, indicated that Members may speak as frequently in debate as they are yielded to by those controlling the floor.

MISS [JESSIE] SUMNER of Illinois: May the same person speak two or three times in general debate on the same bill?

THE CHAIRMAN: General debate on this bill has been fixed at 16 hours, the time equally divided between the chairman and the ranking minority member of the committee. They may yield, once, twice, or as many times as they desire to whom they desire.

***Speaking More Than Once on Amendment***

**§ 15.9 While a Member may not speak twice on the same amendment, he may speak in opposition to a pending amendment and subsequently offer a pro forma amendment and debate that.**

18. 92 CONG. REC. 8694, 79th Cong. 2d Sess.

On June 30, 1955,<sup>(19)</sup> during consideration of S. 2090, to amend the Mutual Security Act of 1954, Chairman Jere Cooper, of Tennessee, stated that a Member may in effect speak twice on the same amendment by opposing a pending amendment and subsequently offering a pro forma amendment.

MR. [JAMES P.] RICHARDS [of South Carolina]: Mr. Chairman, I move to strike out the last word. . . .

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, will the gentleman yield?

MR. RICHARDS: I cannot yield just now.

MR. GROSS: Mr. Chairman, I make a point of order. Is the gentleman from South Carolina speaking twice on this? The gentleman has offered an amendment to the amendment.

MR. RICHARDS: I will yield to the gentleman in just a moment. I have a few more minutes of time, and I would like to get an agreement on time.

MR. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto, close in 10 minutes.

THE CHAIRMAN: Is there objection to the request of the gentleman from South Carolina?

MR. GROSS: Mr. Chairman, reserving the right to object, do I understand that the gentleman from South Carolina has offered an amendment to this amendment; and, if so, has it been read?

THE CHAIRMAN: The gentleman from South Carolina offered an amendment

to the amendment by moving to strike out the last word, which is a very common practice in the House.

MR. GROSS: I thought the gentleman had moved to strike out the last word on a previous occasion.

THE CHAIRMAN: No, the gentleman from South Carolina rose in opposition to the pending amendment and now has the floor on a pro forma amendment, which is entirely in order.

**§ 15.10 Although a Member may not speak twice on the same amendment he may rise in opposition to a pro forma amendment after debating a substantive amendment, and accomplish that result.**

On July 20, 1951,<sup>(20)</sup> during consideration of H.R. 3871, amendments to the Defense Production Act of 1950, Chairman Wilbur D. Mills, of Arkansas, stated that a Member may in effect speak twice on the same amendment by opposing a pro forma amendment.

MR. [JESSE P.] WOLCOTT [of Michigan]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. WOLCOTT: Mr. Chairman, is it in order for a Member to talk twice on the same amendment?

THE CHAIRMAN: A Member may rise in opposition to a pro forma amend-

19. 101 CONG. REC. 9614, 84th Cong. 1st Sess.

20. 97 CONG. REC. 8566, 82d Cong. 1st Sess.

ment and accomplish that result, if he desires to do so.

### ***Time Limitation on Pro Forma Amendment***

**§ 15.11 A Member recognized for five minutes on a pro forma amendment may not automatically extend his time by offering a substantive amendment, because the Chair seeks to alternate recognition and is constrained by other factors in his recognition.**

On July 28, 1965,<sup>(1)</sup> during consideration of H.R. 77, repealing section 14(b) of the National Labor Relations Act, Chairman Leo W. O'Brien, of New York, refused to entertain an amendment sought to be offered by a Member who was speaking on a pro forma amendment.

MR. [WILLIAM H.] AYRES [of Ohio]: Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I ask unanimous consent to proceed for an additional 5 minutes.

THE CHAIRMAN: Is there objection to the request of the gentleman from Ohio?

There was no objection.

MR. AYRES: Mr. Chairman, I am most gratified at the assurance of

Chairman Powell that a complete committee investigation of National Labor Relations Board election procedures will be held. Mr. Powell's House floor statement to me, just prior to a vote on the repeal of section 14(b) of the Taft-Hartley Act, means that we can now delve into a part of labor relations that could have great impact on the establishment of a good climate for labor industry relations. . . .

In order to have a cooling-off period, Mr. Chairman, I offer an amendment.

THE CHAIRMAN: The Chair has not recognized the gentleman for that purpose.

Does any other Member offer an amendment at this time?

MRS. [EDITH S.] GREEN of Oregon: Mr. Chairman, I should like to offer an amendment.

THE CHAIRMAN: The Chair recognizes the gentlewoman from Oregon [Mrs. Green].

### ***Timeliness of Motion to Close Debate***

**§ 15.12 A motion to close debate on an amendment in the Committee of the Whole under the five-minute rule is not in order until there has been some debate on such amendment.**

On Mar. 25, 1947,<sup>(2)</sup> during consideration of H.R. 2700, the Department of Labor and the Federal Security Agency appropria-

1. 111 CONG. REC. 18631, 89th Cong. 1st Sess.

2. 93 CONG. REC. 2557, 80th Cong. 1st Sess.

tion bill of 1948, Chairman Clifford R. Hope, of Kansas, ruled on the timeliness of a motion to close debate on an amendment.

MR. [JOHN J.] ROONEY [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Rooney: On page 2, line 6, strike out "\$819,500" and insert "\$1,190,000."

MR. H. CARL ANDERSEN [of Minnesota]: Mr. Chairman, I ask unanimous consent that debate on this amendment close in 10 minutes.

MR. ROONEY: I object, Mr. Chairman.

MR. [FRANK B.] KEEFE [of Wisconsin]: Mr. Chairman, I move that all debate on the pending amendment and all amendments thereto close in 10 minutes.

MR. [JERE] COOPER [of Tennessee]: Mr. Chairman, I make the point of order that the motion is not in order now, until some debate is had on the amendment.

THE CHAIRMAN: The point of order is well taken. The motion is not in order at this time, since there has been no debate on the amendment.

### ***Debate on Appeal of Chair's Ruling***

#### **§ 15.13 An appeal in the Committee of the Whole is debatable under the five-minute rule and such debate is confined to the appeal.**

On Feb. 22, 1950, Calendar Wednesday,<sup>(3)</sup> during consider-

3. 96 CONG. REC. 2178, 2179, 81st Cong. 2d Sess.

ation of H.R. 4453, the Federal Fair Employment Practice Act, Chairman Francis E. Walter, of Pennsylvania, ruled on the time and scope of debate on an appeal in the Committee of the Whole. The Member in control of time, Mr. Adam C. Powell, of New York, had yielded one minute to Mr. Howard W. Smith, of Virginia, for purposes of debate only. Mr. Smith, however, attempted to offer a motion to rise during that time. Following Mr. Powell's timely point of order, which the Chair sustained, Mr. Smith then sought recognition to offer the motion to rise on his own time, but the Chair advised him that he had no time, as time was in the control of Mr. Powell and Mr. Samuel K. McConnell, Jr., of Pennsylvania. After Mr. Hugo S. Sims, Jr., of South Carolina, had been yielded four minutes of time for debate, Mr. Sims then in turn yielded to Mr. Smith, who again tried to offer a motion to rise. The following proceedings then took place:

THE CHAIRMAN: The gentleman from South Carolina was yielded 4 minutes time for debate. He in turn yielded to the gentleman from Virginia but he cannot yield to the gentleman from Virginia for the purpose of offering that motion (i.e., the motion that the Committee rise).

MR. SMITH of Virginia: Mr. Chairman, I respectfully appeal from the decision of the Chair.

THE CHAIRMAN: The question is, Shall the decision of the Chair be sustained?

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I make a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. RANKIN: Mr. Chairman, is that appeal debatable?

THE CHAIRMAN: Under the 5-minute rule; yes.

MR. RANKIN: Mr. Chairman, I would like to be heard.

THE CHAIRMAN: The gentleman is recognized. The Chair will say that the discussion is now on the appeal.

MR. RANKIN: Mr. Chairman, this is the first time that I ever knew Members of the House to have to edge in in this way to be recognized for a motion for the Committee to rise.

In my opinion that motion is privileged, and any Member has a right to make it at any time.

I do not propose to discuss this monstrosity at the present time. I will do that under the 5-minute rule. But I secured this time to support the appeal of the gentleman from Virginia (Mr. Smith).

In the first place, we are going to be here all night, if this goes on.

I am sure that Joe Stalin heard that applause, because you are driving through here a piece of communistic legislation that Stalin promulgated in 1920, and you could not pass it in a single county in the United States by a popular vote, as was shown in California.

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. MARCANTONIO: I make the point of order that the gentleman from Mississippi must direct his remarks to the question of the appeal from the ruling of the Chair.

THE CHAIRMAN: The gentleman is correct. . . .

The question is, Shall the decision of the Chair be the judgment of the Committee?

The question was taken; and the Chair being in doubt, the Committee divided and there were—ayes 123, noes, 77.

MR. SMITH of Virginia: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Powell and Mr. Smith of Virginia.

The Committee again divided; and the tellers reported that there were—ayes 148, noes 83.

So the decision of the Chair stands as the judgment of the Committee.

### *Debate by Speaker*

#### **§ 15.14 The Speaker sometimes takes the floor in debate in the Committee of the Whole.**

As an example, on June 30, 1939,<sup>(4)</sup> during consideration of House Joint Resolution 306, the Neutrality Act of 1939, Speaker William B. Bankhead, of Alabama, took the floor in debate in the Committee of the Whole:

MR. BANKHEAD: Mr. Chairman, I have listened with very great interest

4. CONG. REC. 8509, 76th Cong. 1st Sess.

to the remarks just made by the ranking minority member of the Committee on Foreign Affairs, in which he seemed to conclude his argument with the proposition that his opposition to the pending bill would keep the United States of America out of war. . . .

After due consideration, one of the major reasons that I am supporting the proposed bill in contradiction to the conclusions of the gentleman from New York is that I honestly and fervently believe that in adopting this law we will be making a great gesture to keep the United States of America out of any world war. . . .

I want to say to you, after a very careful and, I trust, prudent observation and investigation of this whole question of neutrality, that we made a supreme and colossal mistake in policy, in national policy, if you please, when we departed a few years ago from the time-honored and time-tested constitutional principle of leaving the management of our foreign and diplomatic affairs in the hands of the President of the United States and of the State Department of this country. [Applause.] it had been lodged there securely and definitely for 145 years. Every incursion that we have attempted to make by these various neutrality laws in the last 3 or 4 years does but serve to teach us that it is absolutely impossible for the genius even of the Congress of the United States to enact a statute that contains real neutrality. . . .

It is my earnest belief, and I assert it, after undertaking to give to this proposition the sincerest and most earnest consideration of which I am capable, that if we pass this law tonight and lift this inhibition against the

shipment of arms and ammunition to those who need them—who need them, as the gentleman from Texas pointed out—to defend their liberties, to defend their homes, and to defend their principles of self-government and personal liberty—and this is not a fight for the munitions makers, although that argument has been made—I feel that the safest and surest way for us to proceed is to remove the shackles and impediments now resting on the President of the United States and the Secretary of State and give them absolute freedom of action, as the founders of our Constitution conceived they should have, to govern from day to day and from hour to hour the incidents that may occur in this storm-tossed and tempestuous world.

**§ 15.15 The Speaker offered an amendment to a bill in the Committee of the Whole and participated in debate thereon.**

On Apr. 27, 1956,<sup>(5)</sup> during consideration of H.R. 10660, the Federal Highway and Revenue Acts of 1956, Speaker Sam Rayburn, of Texas, offered and debated an amendment.

MR. RAYBURN: Mr. Chairman, offer an amendment.

5. 102 CONG. REC. 7212, 84th Cong. 2d Sess. See 101 CONG. REC. 3204, 3205, 84th Cong. 1st Sess., Mar. 18, 1955, in which Speaker Sam Rayburn [Tex.], offered an amendment proposing an additional House building.

The Clerk read as follows:

Amendment offered by Mr. Rayburn:

On page 14, line 20, strike out "Committee on Public Works of the."

On line 23, strike out "on Public Works."

On line 24, after the word "Representatives", insert "to which referred." . . .

On page 30, strike out lines 12 through 18 and insert "furnish to the Congress such information, books, records, correspondence, memoranda, papers, and documents which are in their possession relating to the construction of the Interstate System. . . ."

MR. RAYBURN: Mr. Chairman, this amendment has been very carefully drawn—I hope. Its purpose is not to rob anybody of any authority which they think they should have. But a short while ago there began to grow up in the House the practice of including provisions in bills saying that the departments should report to committees of Congress. The only thing this amendment does is to provide that they shall report to the Congress. Then whoever may be Speaker of the House will refer them to the proper place. I just feel that it would be a little more dignified if these matters were referred to 435 Members instead of 25 or 30. . . .

MR. RAYBURN: I might say also that before I offered this amendment I conferred with the gentleman from Massachusetts [Mr. Martin], the ex-Speaker, and it is agreeable to him.

MR. [JERE] COOPER [of Tennessee]: Mr. Chairman, will the gentleman yield?

MR. RAYBURN: I yield.

MR. COOPER: I merely want to point out that in title II of the pending bill

it is provided that reports are to be made to the Congress.

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Texas [Mr. Rayburn].

The amendment was agreed to.

### *Use of Exhibits in Debate*

#### **§ 15.16 Where objection is made to the display of exhibits in debate in the Committee of the Whole, the Chair puts the question to the Committee for its decision.**

On Aug. 5, 1949,<sup>(6)</sup> during consideration of H.R. 1758, amending the Natural Gas Act, Chairman Howard W. Smith, of Virginia, put to the Committee of the Whole a question regarding display of a chart after objection had been raised to such display.

MR. [OREN] HARRIS [of Arkansas]: Mr. Chairman, I move to strike out the last word, and ask unanimous consent to proceed for five additional minutes, in order that I may help to clear up the situation here about which so many people have come to me and asked, and in order that I may show you on a chart just what this legislation will do. . . .

MR. [EUGENE D.] O'SULLIVAN [of Nebraska]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

6. 95 CONG. REC. 10859, 81st Cong. 1st Sess.

MR. O'SULLIVAN: Mr. Chairman, is it in order for an exhibit to be presented to the Committee of the Whole or to the House of Representatives? As I read the rules it is not in order to do so, unless the permission of the Committee of the Whole or of the House is first obtained.

THE CHAIRMAN: If the gentleman from Nebraska objects to the use of the exhibit, the Chair will put the question to the Committee of the Whole. Does the gentleman object?

MR. O'SULLIVAN: I object, Mr. Chairman.

THE CHAIRMAN: The question is: Shall the use of the exhibit be permitted?

The question was agreed to.

## § 16. Time Limitations

Where five-minute debate has been limited to a certain number of minutes, and not to a time certain, the time consumed by reading amendments and quorum calls is not taken from that remaining for debate; but where debate has been limited to a time certain, time used on extraneous motions, quorum calls or votes comes out of the time remaining under the limitation and reduces the time that may be allocated to Members wishing to speak.<sup>(7)</sup>

7. §§ 16.2–16.6, *infra*. The Chair has stated that, where time for debate on an amendment is limited to a time certain, the time permitted for de-

## *Computation of Time Limitations*

### § 16.1 Where the Committee of the Whole fixes the time for debate on an amendment at 20 minutes, such time is counted in minutes of debate and not in minutes by the clock.

On Feb. 8, 1950,<sup>(8)</sup> during consideration of H.R. 2945, to adjust postal rates, Chairman Chet Holifield, of California, indicated that the time period fixed for debate meant passage of time of debate as distinguished from passage of time on the clock.

MR. [THOMAS J.] MURRAY of Tennessee: Mr. Chairman, I move that all debate on the committee substitute and all amendments thereto close in 20 minutes.

THE CHAIRMAN: The question is on the motion.

The question was taken; and on a division (demanded by Mr. Sutton) there were—ayes 99, noes 76. . . .

MR. MURRAY of Tennessee: Mr. Chairman, how much more time remains?

THE CHAIRMAN: There are 6 minutes remaining.

bate on a preferential motion that the Committee rise and report with the recommendation that the enacting clause be stricken comes out of the time remaining under such limitation. See § 13.6, *supra*.

8. 96 CONG. REC. 1690, 1693, 81st Cong. 2d Sess.

MR. [DONALD W.] NICHOLSON [of Massachusetts]: Mr. Chairman, a point of order. I raise the point of order that 20 minutes ago we voted to close debate. The 20 minutes have gone.

THE CHAIRMAN: The Chair advises the gentleman that the 20 minutes for debate have not been used. The Chair will watch the matter closely.

**§ 16.2 Where time for debate is limited without reference to a time certain, the time consumed by the reading of amendments is not taken from that remaining for debate.**

On Oct. 3, 1969,<sup>(9)</sup> during consideration of H.R. 14000, the military procurement authorization for fiscal year 1970, Chairman Daniel D. Rostenkowski, of Illinois, stated that the time used to read amendments is not charged against a limitation of time in minutes.

MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Chairman, I move that all debate on title V and all amendments thereto close in 15 minutes.

THE CHAIRMAN: The question is on the motion offered by the gentleman from South Carolina.

The motion was agreed to.

THE CHAIRMAN: The Chair recognizes the gentleman from Indiana (Mr. Dennis).

MR. [DAVID W.] DENNIS: Mr. Chairman, I will simply say that I support

my Democratic colleague from Indiana. This is one amendment I am going to vote for. I cannot see any reason why we should not study profits. That is all this asks us to do. We are not accusing anybody of anything. We are studying profits, by the use of a governmental organization to conduct that study, and I think the people we represent, who pay the taxes, are for that, and I am for it.

MR. [JOHN B.] ANDERSON of Illinois: Mr. Chairman, I offer a perfecting amendment to title V.

The Clerk read as follows: . . .

MR. [HAROLD R.] COLLIER [of Illinois] (during the reading): Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. COLLIER: Mr. Chairman, I would like to know whether the reading of this amendment is charged against the limited time allotment.

THE CHAIRMAN: It is not charged against the limited time.

**§ 16.3 Time consumed by a quorum call does not come out of a limitation of time for debate on a pending amendment and all amendments thereto where that limitation specifies minutes of debate rather than a time certain by the clock.**

On Nov. 9, 1971,<sup>(10)</sup> during consideration of H.R. 10729, to amend the Federal Insecticide,

9. 115 CONG. REC. 28459, 28460, 91st Cong. 1st Sess.

10. 117 CONG. REC. 40060, 40061, 92d Cong. 1st Sess.

Fungicide, and Rodenticide Act, Chairman William L. Hungate, of Missouri, indicated that time consumed on a quorum call would not be charged against a time limitation specifying minutes of debate.

MR. [WILLIAM R.] POAGE [of Texas]: Mr. Chairman, I move that all debate on the Dow amendment in the nature of a substitute, the Kyl substitute amendment, and all amendments thereto close in 20 minutes.

THE CHAIRMAN: The question is on the motion offered by the gentleman from Texas (Mr. POAGE).

The motion was agreed to.

MR. [JOHN G.] DOW [of New York]: Mr. Chairman. I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count.

MR. DOW: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. DOW: Mr. Chairman, if there is a rollcall will this come out of the time limitation?

THE CHAIRMAN: The Chair will state in response to the inquiry of the gentleman from New York (Mr. Dow) that the motion that was agreed to, that was offered by the gentleman from Texas (Mr. POAGE) was for 20 minutes of debate, and the Chair will advise the gentleman from New York that there will be 20 minutes allotted for debate.

#### **§ 16.4 Where the Committee of the Whole agrees to a unanimous-consent request lim-**

**iting debate on an amendment to a certain number of minutes, the time consumed in two five-minute speeches on a motion to rise and report a bill with the recommendation that the enacting clause be stricken out is not taken from the time fixed for debate on the previously offered amendment.**

On Oct. 17, 1945,<sup>(11)</sup> during consideration of H.R. 3615, the airport bill, Chairman Graham A. Barden, of North Carolina, stated that time consumed on the motion to rise and report a bill with the recommendation that the enacting clause be stricken out is not taken from the time fixed for debate on an amendment.

MR. [ALFRED L.] BULWINKLE: [of North Carolina]: Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

THE CHAIRMAN: Is there objection to the request of the gentleman from North Carolina?

There was no objection.

MR. [CLARKE E.] HOFFMAN [of Michigan]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Hoffman moves that the Committee rise and report the bill back to the House with the recommenda-

11. 91 CONG. REC. 9751, 79th Cong. 1st Sess.

tion that the enacting clause be stricken out.

MR. [JOHN W.] McCORMACK [of Massachusetts]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. McCORMACK: My understanding is that on the motion offered by the gentleman from Michigan there may be 10 minutes of debate, 5 minutes for and 5 minutes against, and that if the motion is defeated the 10 minutes of debate on the amendment still remain to be used. Is that correct?

THE CHAIRMAN: The gentleman is correct.

### ***Dividing Debate Time***

#### **§ 16.5 Where the Committee of the Whole has fixed the time for debate on pending amendments, the Chair notes the names of the Members seeking recognition and divides the time equally between them.**

On Aug. 18, 1949,<sup>(12)</sup> during consideration of H.R. 5895, the Mutual Defense Assistance Act of 1949, Chairman Wilbur D. Mills, of Arkansas, noted the names of Members seeking recognition and divided the time equally among them after the Committee of the Whole fixed the time for debate on pending amendments.

MR. [JOHN] KEE [of West Virginia]: Mr. Chairman, I ask unanimous con-

sent that all debate on the pending amendments and all amendments thereto close in 1 hour.

THE CHAIRMAN: Is there objection to the request of the gentleman from West Virginia?

There was no objection. . . .

MR. [EARL] WILSON of Indiana: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. WILSON of Indiana: There were a certain number of us on our feet when the unanimous-consent request was propounded. After the time was limited, about twice as many people got on their feet to be recognized.

THE CHAIRMAN: The Chair is endeavoring to ascertain those Members who desire to speak, and has no disposition to violate any rights of freedom of speech.

MR. WILSON of Indiana: Further pressing my point of order, is it in order after the time is limited for others to get the time that we have reserved for ourselves? I would like to object under the present situation.

THE CHAIRMAN: Permit the Chair to answer the gentleman. If the gentleman from Indiana will ascertain and indicate to the Chair the names of the Members who were not standing at the time the unanimous-consent request was agreed to, the gentleman will render a great service to the Chair in determining how to answer the gentleman.

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. RICH: That is not the duty of the gentleman from Indiana. That is the duty of the Clerk.

12. 95 CONG. REC. 11760, 81st Cong. 1st Sess.

THE CHAIRMAN: The gentleman from Pennsylvania and the Chair both understand that, but apparently all Members do not. The Chair is endeavoring to do the best he can to ascertain those who desire to speak under this limitation of time. Now permit the Chair to ascertain that.

MR. [CLARK E.] HOFFMAN of Michigan: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. HOFFMAN of Michigan: Will the Chair, with the assistance of the Clerk, advise me how many Members have asked for time, and how much time each Member will be allotted?

THE CHAIRMAN: Each of the Members whose names appear on the list will be recognized for 2 minutes, there being 30 Members on their feet at the time and debate having been limited to 1 hour

**§ 16.6 Where debate on a bill and all amendments thereto is limited to a time certain, the Chair may in his discretion choose to disregard the five-minute rule and divide the available time equally among Members wishing to offer an amendment and those opposed thereto.**

On May 6, 1970,<sup>(13)</sup> during consideration of H.R. 17123, the military procurement authorization for fiscal year 1971, Chairman

Daniel D. Rostenkowski, of Illinois, divided the time equally among Members wishing to offer amendments and those opposed to the amendments, debate having been limited to a time certain.

MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Chairman, I move that all debate on the bill and all amendments to the bill close at 7 o'clock.

THE CHAIRMAN: The question is on the motion offered by the gentleman from South Carolina.

The motion was agreed to.

MR. [GLENN M.] ANDERSON of California: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Anderson of California:

On page 2, preceding line 20, insert the following: Change the period to a semicolon and add the following: "and *Provided further*, that the funds authorized herein for the construction and conversion of naval vessels shall be equally distributed between the Atlantic, Pacific, and Gulf Coast shipyards unless the President determines that another distribution will maintain shipyards in each of the areas adequate to meet the requirements of national defense."

THE CHAIRMAN: The gentleman from California is recognized for 5 minutes in support of the amendment.

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, will the gentleman yield to me for a parliamentary inquiry?

MR. ANDERSON of California: Yes; if it is a parliamentary inquiry.

MR. STRATTON: Mr. Chairman, a parliamentary inquiry.

13. 116 CONG. REC. 14465, 14466, 91st Cong. 2d Sess.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. STRATTON: Under the limitation of debate imposed by the House, a moment ago, is there any restriction on those Members who will be permitted to speak on amendments, either for or against, between now and 7 o'clock?

THE CHAIRMAN: The Chair will endeavor to divide the time equally among the proponents and the opponents of those who have amendments.

MR. STRATTON: I thank the Chair.

THE CHAIRMAN: The gentleman from California is recognized.

### ***Effect of Expiration of Time***

**§ 16.7 Where the Committee of the Whole has agreed to close debate on a title and all amendments thereto at a time certain (i.e., 8:20 p.m.) the Chair attempts to divide the time equitably among those Members desiring recognition; but if all available time is consumed, it may not be possible to recognize each Member on the list and their right to speak may be lost.**

On Oct. 7, 1965,<sup>(14)</sup> during debate on S. 2084, the Highway Beautification Act of 1965, Chairman Phillip M. Landrum, of Georgia, stated that the right of a Member to speak was cut off

when all time had been consumed by the first speaker.

MR. [JOHN C.] KLUCZYNSKI [of Illinois]: Mr. Chairman, I move that all debate on title I and all amendments thereto close at 8:20. . . .

THE CHAIRMAN: The question is on the motion offered by the gentleman from Illinois.

The question was taken; and on a division (demanded by Mr. Gerald R. Ford) there were—ayes 121, noes 84.

So the motion was agreed to.

THE CHAIRMAN: The Chair recognizes the gentleman from Florida [Mr. Cramer].

MR. [WILLIAM C.] CRAMER: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Cramer: On page 17, after line 19, insert the following new subsection: . . .

THE CHAIRMAN: The time of the gentleman from Florida has expired.

The question is on the amendment offered by the gentleman from Florida.

The question was taken; and on a division (demanded by Mr. Cramer) there were—ayes 73, noes 127.

MR. GERALD R. FORD [of Michigan]: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Wright and Mr. Gerald R. Ford.

The Committee again divided, and the tellers reported that there were—ayes 83, noes 142.

So the amendment was rejected.

MR. [THOMAS M.] PELLY [of Washington]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state the parliamentary inquiry.

14. 111 CONG. REC. 26305, 26306, 89th Cong. 1st Sess.

MR. PELL: Mr. Chairman, have I and those of us who are on our feet entitled to 10 seconds lost that time to explain our amendments?

THE CHAIRMAN: No, the gentleman is not correct in stating that Members were entitled to 10 seconds. Before the first speaker in behalf of the amendment had concluded, all time had expired. So the gentleman is not entitled to 10 seconds.

**§ 16.8 The Chair stated in response to a parliamentary inquiry that where all debate on an amendment and all amendments thereto has been limited to a time certain (i.e., 5 p.m. that day), and the Committee of the Whole rises before that time without having completed action on the amendments, no time would be considered as remaining when the Committee, on a later day, again resumes consideration of the amendments.**

On May 6, 1970,<sup>(15)</sup> during debate on H.R. 17123, the military procurement authorization for fiscal year 1971, Chairman Daniel D. Rostenkowski, of Illinois, indicated that no time would remain for debate on a subsequent day if the Committee rose before the

15. 116 CONG. REC. 14452, 91st Cong. 2d Sess.

hour designated (5 o'clock) for the closing of debate.

MR. [ROBERT L.] LEGGETT [of California]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. LEGGETT: Mr. Chairman, considering the fact that a time limitation has now been set in relation to today at 5 o'clock, does the time of the debate on the motion that we have already heard, come out of the time on the amendments?

THE CHAIRMAN: The time will come out of the time of those who are participating in debate.

MR. LEGGETT: Mr. Chairman, a further parliamentary inquiry. If we chose to rise right now and come back tomorrow, then would there be any time limitation on debate?

THE CHAIRMAN: There would be no further debate.

The time was set at 5 o'clock.

The question is on the motion offered by the gentleman from Massachusetts (Mr. O'Neill).

The motion was rejected.

**§ 16.9 Where all time for debate on a portion of a bill has expired under an agreement closing debate at a specified time, the Chair still recognizes Members to offer amendments, but they are voted on without debate.**

On Oct. 7, 1965,<sup>(16)</sup> during consideration of S. 2084, the Highway

16. 111 CONG. REC. 26300, 26306, 89th Cong. 1st Sess.

Beautification Act of 1965, Chairman Phillip M. Landrum, of Georgia, stated that, following expiration of time under an agreement closing debate at a specified time, he would recognize Members to offer amendments but would not permit debate.

MR. [JOHN C.] KLUCZYNSKI [of Illinois]: Mr. Chairman, I move that all debate on title I and all amendments thereto close at 8:20. . . .

THE CHAIRMAN: The question is on the motion offered by the gentleman from Illinois.

The question was taken; and on a division (demanded by Mr. Gerald R. Ford) there were—ayes 12], noes 84.

So the motion was agreed to.

THE CHAIRMAN: The Chair recognizes the gentleman from Florida [Mr. Cramer].

MR. [WILLIAM C.] CRAMER: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Cramer: On page 17, after line 19, insert the following new subsection:

THE CHAIRMAN: The time of the gentleman from Florida has expired.

The question is on the amendment offered by the gentleman from Florida.

The question was taken; and on a division (demanded by Mr. Cramer) there were—ayes 73, noes 127.

MR. GERALD R. FORD [of Michigan]: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Wright and Mr. Gerald R. Ford.

The Committee again divided, and the tellers reported that there were—ayes 83, noes 142.

So the amendment was rejected.

MR. [THOMAS M.] PELLY [of Washington]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state the parliamentary inquiry.

MR. PELLY: Mr. Chairman, have I and those of us who are on our feet entitled to 10 seconds lost that time to explain our amendments?

THE CHAIRMAN: No, the gentleman is not correct in stating that Members were entitled to 10 seconds. Before the first speaker in behalf of the amendment had concluded, all time had expired. So the gentleman is not entitled to 10 seconds.

MR. [RICHARD H.] ICHORD [of Missouri]: Mr. Chairman, a further parliamentary inquiry.

THE CHAIRMAN: The gentleman will state the parliamentary inquiry.

MR. [EDMOND] EDMONDSON [of Oklahoma]: Does that apply to Members who have amendments at the desk and want to offer amendments?

THE CHAIRMAN: Members can offer amendments. The amendment will be read by the Clerk and the amendment will be voted upon. But there will be no debate on the amendment.

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state the parliamentary inquiry.

MR. HALLECK: I understood the limitation of time was for 10 minutes rather than for a fixed time.

THE CHAIRMAN: The gentleman from Indiana is not correct in his understanding. The motion to close debate was that debate close at 8:20 p.m.

## § 17. Calling Members to Order

The Chairman directs the Committee of the Whole to rise and report to the House when objections have been made under Rule XIV clause 4,<sup>(17)</sup> which relates to calling a Member to order for transgressing the rules of the House, or Rule XIV clause 5,<sup>(18)</sup> which relates to calling a Member to order for words spoken in debate.

### *Seating of Member Called to Order*

#### § 17.1 A Member called to order in the Committee of the Whole because of words spoken in debate must take his seat.

On Mar. 26, 1965,<sup>(19)</sup> during consideration of H.R. 2362, the Elementary and Secondary Edu-

17. *House Rules and Manual* §760 (1979); 2 Hinds' Precedents §1653. See also Ch. 29 §§48–52, *infra*

18. *House Rules and Manual* §761 (1979); §17.3, *infra*; 2 Hinds' Precedents §§1257–1259, 1348; and 8 Cannon's Precedents §§2533, 2538, 2539. See also Jefferson's Manual, *House Rules and Manual* §369 (1979), for parliamentary law on calling to order.

19. 111 CONG. REC. 6107, 89th Cong. 1st Sess.

cation Act of 1965, Chairman Richard Bolling, of Missouri, stated that a Member called to order because of words spoken in debate in the Committee of the Whole must take his seat.

MR. [FRANK] THOMPSON [Jr.] of New Jersey: Mr. Chairman, I move to strike out the requisite number of words. . . .

I might suggest further you can beat this dog all you want for political purposes; you can demagog however subtly and try to scare people off at the expense of the Nation's schoolchildren with your demagoguery

MR. [CHARLES E.] GOODELL [of New York]: Mr. Chairman, I demand that those words be taken down.

MR. THOMPSON of New Jersey: Please take the words down.

MR. GOODELL: Mr. Chairman, the gentleman has accused one of his colleagues of demagoguery.

MR. THOMPSON of New Jersey: I was referring to a gentleman; who takes exception to that?

MR. GOODELL: Mr. Chairman, a point of order: The gentleman must take his seat.

THE CHAIRMAN: The gentleman from New Jersey will take his seat.

### *Rising of Committee to Report Objectionable Words*

#### § 17.2 When words are taken down in the Committee of the Whole, the Committee immediately rises and the Chairman reports the words objected to to the House.

On Mar. 9, 1936,<sup>(20)</sup> during consideration of H.R. 11563, the District of Columbia rent commission bill, the Committee of the Whole rose immediately after a demand was made to take words down, and the Chairman reported the objectionable words to the House.

MR. [HENRY] ELLENBOGEN [of Pennsylvania]: Mr. Chairman, a point of order. I ask that the gentleman's language be taken down. It is a violation of the rules of the House, and in the meantime I demand that the gentleman take his seat.

THE CHAIRMAN:<sup>(1)</sup> The Clerk will report the words objected to.

The Clerk read as follows:

MR. BLANTON: Here is the answer if the gentleman can understand English.

The Committee rose and the Speaker pro tempore (Mr. O'Connor) having assumed the chair, Mr. Umstead, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee having had under consideration the bill (H.R. 11563), certain words used in debate were objected to and on request were taken down and read at the Clerk's desk and he reported the same to the House herewith.

THE SPEAKER PRO TEMPORE:<sup>(2)</sup> The Clerk will report the words objected to.

20. 80 CONG. REC. 3465, 74th Cong. 2d Sess. See 79 CONG. REC. 1808, 74th Cong. 1st Sess., Feb. 7, 1935, for another illustration of this procedure.

1. William B. Umstead (N.C.)

2. John J. O'Connor (N.Y.).

The Clerk read as follows:

MR. BLANTON: Here is the answer, if the gentleman can understand English.

THE SPEAKER PRO TEMPORE: The Chair is ready to rule. The Chair sees nothing objectionable in the words used.

The Committee will resume its session.

### *Expungement of Words*

#### **§ 17.3 Where a demand is made that certain words spoken in debate be taken down in Committee of the Whole, such words must be reported to the House, and a motion to expunge words from the Record is not in order in the Committee.**

On Feb. 18, 1941,<sup>(3)</sup> Chairman Warren G. Magnuson, of Washington, stated that the House, not the Committee of the Whole, determines whether to expunge from the Record words spoken and objected to in the Committee of the Whole.

MR. [CLARE E.] HOFFMAN [of Michigan]: All we ask in this case is what we do not expect to get, that you stick by the rules of the game you established last year. That is not too much to expect if we adhere to the agreement of last year. This would give us in Michigan the Representative to

3. 87 CONG. REC. 1126, 77th Cong. 1st Sess.

which we are entitled. But we know what you are going to do. You know what is going to happen. You are going to skin us, are you not? And we have no way to prevent it.

MR. [ROBERT F.] RICH [of Pennsylvania]: I demand that the gentleman's words be taken down. . . .

THE CHAIRMAN: . . . The Clerk will read the words objected to.

The Clerk read as follows:

You know what is going to happen. You are going to skin us, are you not; and we have not any way to help it

MR. RICH: Mr. Chairman, I ask that those words be expunged from the Record. They are not going to skin anybody around here.

THE CHAIRMAN: That is a matter for the House to decide. The Committee will rise.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Magnuson, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill H.R. 2665, certain words in debate were objected to, which, on request, were taken down and read at the Clerk's desk, and that he reported the same herewith to the House.

THE SPEAKER: <sup>(4)</sup> The Clerk will report the words objected to.

The Clerk read as follows:

MR. HOFFMAN: You know what is going to happen. You are going to skin us, are you not; and we have not any way to help it.

THE SPEAKER: The Chair is of the opinion that the expression contained

in the words reported to the House is merely a colloquialism which does not reflect in an unparliamentary manner upon any Member.

The Chair cannot see anything in these words which violates the rules of the House.

The Committee will resume its session.

### *Scope of Ruling by Speaker*

**§ 17.4 The Speaker passes only on words reported from the Committee of the Whole; a demand that additional words uttered in the Committee (but not reported to the House) be reported is not in order in the House.**

On July 27, 1965,<sup>(5)</sup> during consideration of H.R. 77, repealing section 14(b) of the Labor-Management Relations Act, Speaker John W. McCormack, of Massachusetts, stated that he could rule only on words reported from the Committee of the Whole as recited by the Clerk.<sup>(6)</sup>

MR. [CHARLES E.] GOODELL [of New York]: I would be very interested on this particular issue, if we are going to have a repeat of the exhibition on the housing vote with the gentleman withholding votes and seeing how they are necessary on the issue that comes be-

4. Sam Rayburn (Tex.).

5. 111 CONG. REC. 18441, 89th Cong. 1st Sess.

6. See 5 Hinds' Precedents §5202, for additional support for this principle.

fore us. I hope that this will not be repeated. In my instance, and in the instance of all the gentlemen from New York, I believe we will be standing on the merits of whether we should have a Federal law that destroys the right of the States to make up their minds.

MR. [NEAL] SMITH of Iowa: Mr. Chairman, I demand that the gentleman's words be taken down. He is impugning the motives of Members of this body.

THE CHAIRMAN:<sup>(7)</sup> The Clerk will report the words objected to.

The Clerk read as follows:

MR. GOODELL: I would be very interested on this particular issue if we are going to have a repeat of the exhibition on the housing vote with the gentlemen withholding votes and seeing how they are necessary on the issue that comes before us. I hope that this will not be repeated.

THE CHAIRMAN: The Committee will rise.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. O'Brien, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 77) to repeal section 14(b) of the National Labor Relations Act, as amended, and section 705(b) of the Labor-Management Reporting and Disclosure Act of 1959 and to amend the first proviso of section 8(a)(3) of the National Labor Relations Act, as amended, certain words used in debate were objected to and on request were taken down and read at the Clerk's desk, and he herewith reported the same to the House.

7. Leo W. O'Brien (N.Y.).

THE SPEAKER: The Clerk will report the words objected to.

The Clerk read as follows:

MR. GOODELL: I would be very interested on this particular issue if we are going to have a repeat of the exhibition on the housing vote with the gentlemen withholding votes and seeing how they are necessary on the issue that comes before us. I hope that this will not be repeated.

MR. SMITH of Iowa: Mr. Speaker, there was another sentence following that. He did not read the last sentence.

THE SPEAKER: The occupant of the Chair can pass only on the words that have been reported.

The Chair will state that in debate the question of impugning the motives or attacking the vote of a Member is one thing; but looking at it from a broad angle the remarks made by the gentleman from New York [Mr. Goodell] seem to come within the purview of the rules.

The Chair does not consider this to be a reflection, if the gentleman was making any reflection, upon any Member of the House or upon any State of the Union, particularly the State of Iowa.

The Chair overrules the point of order.

MR. SMITH of Iowa: Mr. Speaker, I demand the sentence following that be taken down. That was the sentence objected to. He said we did not vote on the merits.

THE SPEAKER: The Chair will state that the Chair can only pass upon the words presented to the Chair and which were taken down in the Committee of the Whole.

MR. SMITH of Iowa: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. SMITH of Iowa: Are we not entitled to have the words taken down that were objected to in the Committee of the Whole so that Members can exercise their rights?

THE SPEAKER: The Chair was confronted with the words actually reported by the Clerk.

MR. SMITH of Iowa: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. SMITH of Iowa: Then when we go back into the Committee of the Whole, am I entitled to demand that the words be taken down that I objected to and report them back?

THE SPEAKER: The Chair will not pass upon what can be done in the Committee of the Whole. Of course, if the gentleman desires to renew his request, that would be a matter for the Chairman of the Committee of the Whole to consider on the question of whether or not the words were taken down as demanded by the gentleman from Iowa.

The Committee will resume its sitting.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 77 with Mr. O'Brien in the chair.

THE CHAIRMAN: The Committee will be in order.

MR. SMITH of Iowa: Mr. Chairman, I demand that the words the gentleman most recently gave me be taken down.

THE CHAIRMAN: The gentleman from Iowa demands that certain additional words which he claims were uttered shall be taken down.

The Clerk will report the words objected to.

The Clerk read as follows:

MR. GOODELL: In my instance and in the instance of all the gentlemen from New York, I believe we will be standing on the merits of whether we should have a Federal law that destroys the right of the States to make up their minds.

MR. SMITH of Iowa: That is not all of it, Mr. Chairman. That is not all of the words.

THE CHAIRMAN: I might say to the gentleman that is all that the Clerk was able to furnish the Chairman and I assume that the point he has raised—

MR. SMITH of Iowa: In that case, I withdraw the objection.

THE CHAIRMAN: Objection is withdrawn.

The Committee will proceed in order.

### ***Automatic Resolution Into Committee After Ruling***

#### **§ 17.5 After the Speaker has ruled on words taken down in Committee, the House automatically again resolves into the Committee of the Whole.**

On Mar. 26, 1965,<sup>(8)</sup> during consideration of H.R. 2362, the Elementary and Secondary Education Act of 1965, and after Speaker John W. McCormack, of Massachusetts, ruled on words taken

8. 111 CONG. REC. 6107, 89th Cong. 1st Sess.

down in the Committee of the Whole, the House automatically resolved into the Committee under the Chairmanship of Richard Bolling, of Missouri.

THE SPEAKER: The Clerk will report the words objected to.

The Clerk read as follows:

I might suggest further you can beat this dog all you want for political purposes; you can demagog however subtly and try to scare people off at the expense of the Nation's schoolchildren with your demagoguery—

THE SPEAKER: The Chair feels that Members in debate have reasonable flexibility in expressing their thoughts.

The Chair sees nothing about the words that contravene the rules of the House. The point of order is not sustained.

The Committee will resume its sitting.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2362) with Mr. Bolling in the chair. . . .

THE CHAIRMAN: . . . The Chair recognizes the gentleman from New York [Mr. Powell).

### ***Withdrawal of Demand***

**§ 17.6 A demand that words spoken in debate be taken down may be withdrawn without unanimous consent in the Committee of the Whole.**

On July 3, 1946,<sup>(9)</sup> Chairman Wright Patman, of Texas, stated that withdrawal of a demand to take words down did not require unanimous consent.

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, I move to strike out the last three words.

Mr. Chairman, I have just finished listening to two political tirades by two political tyros, and I say to those gentlemen that they cannot

MR. [MATTHEW M.] NEELY [of West Virginia]: Mr. Chairman, I demand that those words be taken down.

MR. BROWN of Ohio: If the gentleman knows what the word "tyro" means he can have it taken down.

MR. NEELY: The gentleman knows that that statement is not true and that the statement is not justified. I demand that the words be taken down and stricken from the Record.

THE CHAIRMAN: The Clerk will report the words objected to.

MR. NEELY: Mr. Chairman, for fear that this procedure will delay the final vote on the bill, I withdraw my request.

MR. [EARL] WILSON [of Indiana]: I object, Mr. Chairman.

THE CHAIRMAN: It does not require unanimous consent to withdraw the request.

### ***Withdrawal of Objectionable Words After Speaker's Ruling***

**§ 17.7 Words spoken in debate in the Committee of the**

9. 92 CONG. REC. 8295, 79th Cong. 2d Sess.

**Whole and ruled out of order by the Speaker when reported to the House may by unanimous consent be withdrawn; such consent when granted permits a Member who had the floor to continue without motion to proceed in order provided that his time had not expired.**

On Mar. 16, 1939,<sup>(10)</sup> during consideration of H.R. 4852, the Department of the Interior appropriations bill, 1940, Speaker William B. Bankhead, of Alabama, stated that words spoken in the Committee of the Whole and objected to as violative of rules of the House could be withdrawn by unanimous consent. After the Committee resumed its sitting, Chairman Frank H. Buck, of California, ruled on whether the Member who had been granted unanimous consent to withdraw certain words could proceed with further debate.

MR. [LEE E.] GEYER of California: Mr. Chairman, I move to strike out the last two words. . . .

I have heard the gentleman from Wisconsin, the man who made Milwaukee famous, stand upon this floor a good many times. He is an estimable gentleman. I like him very much when he is not in the Well of this House. I have seen him come out with a hand

that only he possesses, a hand like a ham, and grasp this delicate instrument until it groaned from mad torture. I have seen him come on the floor and stamp up and down like a wild man.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I demand that the gentleman's words be taken down.

THE CHAIRMAN: The gentleman from New York demands that the words of the gentleman be taken down. The gentleman from California will take his seat.

The gentleman from New York will indicate to the Clerk the words objected to.

MR. TABER: "Stamping like a wild man" and "a hand like a ham."

MR. [JOHN C.] SCHAFER [of Wisconsin]: Mr. Chairman, as far as I am concerned, I am not objecting to the words. I will handle him at a later date.

MR. TABER: I believe the integrity of the rules of the House should be preserved.

THE CHAIRMAN: The Clerk will report the words taken down at the request of the gentleman from New York.

The Clerk read as follows:

I have seen him come on the floor and stamp up and down like a wild man.

MR. TABER: Mr. Chairman, there were some other words about "a hand like a ham."

THE CHAIRMAN: The Clerk will report the additional words.

The Clerk read as follows:

I have seen him come out with a hand that only he possesses, a hand

10. 84 CONG. REC. 2871, 76th Cong. 1st Sess.

like a ham, and grasp this delicate instrument until it groaned from mad torture.

THE CHAIRMAN: The Committee will rise.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Buck, Chairman of the Committee of the Whole House on the state of the Union, reported that the Committee having had under consideration the bill (H.R. 4852) the Interior Department appropriation bill, 1940, certain words used in debate were objected to and, on request, were taken down and read at the Clerk's desk, and that he herewith reported the same to the House.

THE SPEAKER: The Clerk will report the words objected to in the Committee of the Whole House on the state of the Union.

The Clerk read as follows:

I have seen him come out with a hand that only he possesses, a hand like a ham, and grasp this delicate instrument until it groaned from mad torture. I have seen him come on the floor and stamp up and down like a wild man.

THE SPEAKER: The rule governing situations of this character provides as follows:

#### OF DECORUM AND DEBATE

When any Member desires to speak or deliver any matter to the House he shall rise and respectfully address himself to "Mr. Speaker," and, on being recognized, may address the House from any place on the floor or from the Clerk's desk, and shall confine himself to the question under debate, avoiding personality.

The words objected to and which have been taken down and read from

the Clerk's desk very patently violate the rule, because the words alleged do involve matters of personal reference and personality.

MR. SCHAFFER of Wisconsin: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. SCHAFFER of Wisconsin: Mr. Speaker, I do not believe the gentleman who had the floor had any intention of violating the rules. He was just carried away by the debate. I rise to ask if the words cannot be withdrawn by unanimous consent.

THE SPEAKER: The words can be withdrawn by unanimous consent.

MR. GEYER of California: Mr. Speaker, I wish to thank the gentleman from Wisconsin for his very generous attitude, and I ask unanimous consent to withdraw the words in question.

THE SPEAKER: Is there objection to the request of the gentleman from California?

There was no objection.

THE SPEAKER: The Committee will resume its sitting.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H.R. 4852, with Mr. Buck in the chair.

THE CHAIRMAN: The gentleman from California is recognized for 3½ minutes.

MR. [JAMES W.] MOTT [of Oregon]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: Does the gentleman from California yield for a parliamentary inquiry?

MR. GEYER of California: I do not yield, Mr. Chairman.

MR. MOTT: A point of order, Mr. Chairman.

THE CHAIRMAN: The gentleman will state it.

MR. MOTT: As I understand, Mr. Chairman, the proceeding just had takes the gentleman off the floor, and he may proceed only by unanimous consent.

THE CHAIRMAN: The Chair may state that, by unanimous consent, the House permitted the gentleman to withdraw his words. That leaves the gentleman in the position he was before the words were uttered.

The gentleman from California will proceed.

MR. MOTT: Mr. Chairman, a further parliamentary inquiry.

THE CHAIRMAN: Does the gentleman yield for a parliamentary inquiry?

MR. GEYER of California: I do not care to yield for another one, Mr. Chairman.

MR. MOTT: A point of order, Mr. Chairman.

THE CHAIRMAN: The gentleman will state it.

MR. MOTT: Mr. Chairman, I make a point of order that the time of the gentleman has expired.

THE CHAIRMAN: The time of the gentleman has not expired. The point of order is overruled.

## § 18. Reading Papers

Rule XXX<sup>(11)</sup> provides that the question of whether a paper may

11. *House Rules and Manual* §915 (1979); see Jefferson's Manual,

be read is to be determined by a vote of the House. Nonetheless, when an objection to the reading of a paper is raised in the Committee of the Whole, the Committee need not rise; the issue is put to<sup>(12)</sup> and voted on<sup>(13)</sup> by the Committee, without debate.

### *Putting Question to Committee of the Whole*

**§ 18.1 Where objection is made in the Committee of the Whole to the reading of a paper, the question may be raised by motion and put to the Committee by the Chairman.**

On Mar. 24, 1948,<sup>(14)</sup> during consideration of S. 2202, the Foreign Assistance Act of 1948, Chairman Francis H. Case, of South Dakota, after objection was made, put to the Committee of the Whole a question regarding the reading of a letter.

MR. [VITO] MARCANTONIO [of New York] (interrupting the reading of the

*House Rules and Manual* §§432–436, for parliamentary law relating to reading papers. See also Ch. 29 §§80–84, *infra*.

12. § 18.1, *infra*.

13. § 18.2, *infra*.

14. 94 CONG. REC. 3436, 80th Cong. 2d Sess.

letter): Mr. Chairman, will the gentleman yield?

MR. [JOHN M.] VORYS [of Ohio]: No.

MR. MARCANTONIO: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. MARCANTONIO: Mr. Chairman, in connection with my point of order, I just want to propound a parliamentary inquiry.

MR. VORYS: I object to his propounding a parliamentary inquiry, Mr. Chairman.

MR. MARCANTONIO: Then I make a point of order, Mr. Chairman.

THE CHAIRMAN: The gentleman will state it.

MR. MARCANTONIO: The point of order is that the gentleman cannot read anybody else's material without the consent of the Committee. I asked the gentleman to yield to me, and he would not yield.

THE CHAIRMAN: The Chair will present that question to the Committee. The question is, Shall the gentleman be permitted to proceed with the reading of the letter?

The question was taken, and the Chair announced that the motion was agreed to.

**§ 18.2 If objection is made in the Committee of the Whole to the reading of a letter by another Member, the question is determined by vote of the Committee without debate.**

On June 26, 1952,<sup>(15)</sup> during consideration of H.R. 8120, the

15. 98 CONG. REC. 8175, 8176, 82d Cong. 2nd Sess.

Defense Production Act Amendments of 1952, the Committee of the Whole by vote and without debate permitted a Member to read a letter by a Governor after objection to that reading was raised.

MR. [CLINTON D.] MCKINNON [of California]: Mr. Chairman, I move to strike out the last word.

Mr. Chairman, yesterday the committee adopted, tentatively at least, the Cole amendment which provided for individual ceilings on price control. This amendment has a lot of things in it that I am sure the Members are not familiar with or I am sure they would not have adopted the amendment. In view of that, the chairman of the committee requested Governor Arnall, for whom I am sure the House has a high regard, to comment on what that would mean in regard to enforcement of price ceilings, and I should like to read what Governor Arnall has to say about it. He said this:

It is my considered judgment that an amendment of this kind

MR. [JESSE P. ] WOLCOTT [of Michigan]: Mr. Chairman, a point of order.

THE CHAIRMAN:<sup>(16)</sup> The gentleman will state it.

MR. WOLCOTT: I have not gone into this too thoroughly, but I make the point of order, Mr. Chairman, that it is against the rules of the House, which control the rules of the committee, to read letters from other than Members of Congress. We have been propagandized enough on this bill already.

THE CHAIRMAN: If the gentleman from Michigan objects to the reading of

16. Wilbur D. Mills (Ark.).

the letter, the question will then be put to the members of the Committee of the Whole for a decision. Does the gentleman object to the further reading of the letter?

MR. WOLCOTT: Yes; at this time I do object, Mr. Chairman.

THE CHAIRMAN: The question is, Shall the gentleman from California be permitted to proceed with the reading of the letter?

The question was taken; and on a division (demanded by Mr. Wolcott) there were—ayes 103, noes 102.

MR. WOLCOTT: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Wolcott and Mr. Bolling.

The Committee again divided; and the tellers reported there were—ayes 141, noes 113.

So Mr. McKinnon was permitted to proceed with the reading of the letter

### ***Time to Read***

#### **§ 18.3 A decision of the Committee of the Whole to permit a Member to read a paper means that the Member may read it within the five minutes allotted to him, and does not necessarily permit him to read the entire paper.**

On June 26, 1952,<sup>(17)</sup> during consideration of H.R. 8210, the Defense Production Act Amendments of 1952, Chairman Wilbur

17. 98 CONG. REC. 8175, 8176, 82d Cong. 2d Sess.

D. Mills, of Arkansas, stated that a decision of the Committee of the Whole to permit a Member to read a letter enables the Member to use only the allotted time to read.

THE CHAIRMAN: The gentleman from California is recognized [to read a letter].

MR. [CLINTON D.] MCKINNON: Mr. Chairman, I want to thank the membership. I am sure there are many Members who are very desirous of getting all the information they can.

MR. [BRENT] SPENCE [of Kentucky]: Mr. Chairman, will the gentleman yield?

MR. MCKINNON: I yield to the gentleman from Kentucky.

MR. SPENCE: I suggest the gentleman read the entire letter.

MR. MCKINNON: The letter reads as follows:

It is my considered judgment that an amendment of this kind, if adopted, would throw a costly monkey-wrench into the food price-control machinery. It would come close to making it completely unworkable. Its effects can be simply stated: . . .

I am confident that if Congress is informed of the consequences of this high-food price, red-tape amendment, it will be overwhelmingly defeated. This is no time to raise the prices of food to housewives or to make the small-business man go through mountains of red tape just to satisfy a few food organizations.

I hope that you will call these considerations to the attention of the House if the individual mark-up amendment is offered on the floor.

Sincerely yours,

ELLIS ARNALL.

THE CHAIRMAN: The gentleman has consumed 5 minutes. . . .

MR. [HERMAN P.] EBERHARTER [of Pennsylvania]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. EBERHARTER: Mr. Chairman, the House decided by a teller vote to permit the reading of this letter. I submit that the letter should be read in its entirety; that is the point of order I make.

THE CHAIRMAN: That is not the decision made by the Committee. The Committee made the decision that the gentleman could read the letter within the time allotted to the gentleman of 5 minutes.

MR. EBERHARTER: I did not hear it so stated when the motion was put, Mr. Chairman.

THE CHAIRMAN: The question put to the Committee had nothing whatsoever to do with the time to be consumed by the gentleman from California. The Chair recognized the gentleman from California for 5 minutes; the question arose as to whether or not he could within that 5 minutes time read extraneous papers.

The point of order is overruled.-

## E. POINTS OF ORDER

### § 19. Generally

Questions of order relating to procedure (as distinguished from cases of disorder or contempt) arising in the Committee of the Whole are decided by the Chairman, not the Speaker.<sup>(18)</sup> However, on an occasion when the Chairman of the Committee of the Whole had taken an active part in the discussion of a point of order,

**18.** 5 Hinds' Precedents §§ 6927, 6928.

See § 6, *supra*, for precedents relating to rulings of the Chairman generally. See Ch. 31, *infra*, for precedents relating to points of order generally. See 4 Hinds' Precedents §§ 4783, 4784, 5 Hinds' Precedents §§ 6921–6937, 6987, and 8 Cannon's Precedents § 3450, for pre-1936 precedents.

the question was by unanimous consent passed over to be later raised in the House.<sup>(19)</sup>

### *Scope of Ruling*

#### **§ 19.1 The Chair does not rule on points not presented in a point of order.**

On June 27, 1949,<sup>(20)</sup> during consideration of H.R. 4009, the Housing Act of 1949, and after overruling a point of order that particular provisions exceeded the jurisdiction of the Committee on Banking and Currency because they constituted appropriations,

**19.** 7 Cannon's Precedents § 1527.

**20.** 95 CONG. REC. 8536–38, 81st Cong. 1st Sess.

Chairman Hale Boggs, of Louisiana, declined to rule on an issue which had not been presented in a point of order.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, the point of order I make is that subparagraphs (e) and (f) of section 102 in title I constitute the appropriation of funds from the Federal Treasury, and that the Committee on Banking and Currency is without jurisdiction to report a bill carrying appropriations under clause 4, rule 21, which says that no bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations.

This is no casual point of order made as a tactical maneuver in consideration of the bill. I make this point of order because this proposes to expand and develop a device or mechanism for getting funds out of the Federal Treasury in an unprecedented degree

The Constitution has said that no money shall be drawn from the Treasury but in consequence of appropriations made by law. It must follow that the mechanism which gets the money out of the Treasury is an appropriation.

I invite the attention of the Chairman to the fact that subparagraph (e) states:

To obtain funds for loans under this title, the Administrator may issue and have outstanding at any one time notes and obligations for purchase by the Secretary of the Treasury in an amount not to exceed \$25,000,000, which limit on such outstanding amount shall be increased by \$225,000,000 on July 1,

1950, and by further amounts of \$250,000,000 on July 1 in each of the years 1951, 1952, and 1953, respectively—

Within the total authorization of \$1,000,000,000.

Further that subparagraph (f) provides that—

The Secretary of the Treasury is authorized and directed—

And I call particular attention to the use of the words “and directed”—

to purchase any notes and other obligations of the Administrator issued under this title and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended—

And so forth. The way in which this particular language extends this device of giving the Secretary authority to subscribe for notes by some authority is this: It includes the words “and directed.”

In other words, the Secretary of the Treasury has no alternative when the Administrator presents to him some of these securities for purchase but to purchase them. The Secretary of the Treasury is not limited to purchasing them by proceeds from the sale of bonds or securities. He is directed to purchase these notes and obligations issued by the Administrator. That means he might use funds obtained from taxes, that he might use funds obtained through the assignment of miscellaneous receipts to the Treasury, that he might use funds obtained through the proceeds of bonds.

This proposal will give to the Committee on Banking and Currency, if it

should be permitted, authority which the Committee on Appropriations does not have, for in the reporting of an appropriation bill for a fiscal year, any appropriation beyond the fiscal year would be held out of order. Here this committee is reporting a bill which proposes to make mandatory extractions from the Treasury during a period of 4 years. . . .

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, I agree with my friend who has raised the point of order that this is not a casual one, but, on the contrary, is a very sincere one. It presents a new question from a legislative angle to be passed upon in the direct question raised by the point of order. . . .

The provision in paragraph (f) that my friend has raised a point of order against relates entirely to loans. As we read section 102 of title I it starts out with loans. Throughout the bill, a number of times, there is reference to loans.

Paragraph (e) says:

To obtain funds for loans under this title.

It is a loan.

The meat of the two paragraphs, as I see it, is this:

Paragraph (f), line 23, page 8, says:

The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Administrator issued under this title and for such purpose is authorized to use as a public-debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such act, as amended, are extended to include

any purchases of such notes and other obligations.

It seems to me that that is the meat. Certainly, the language there does not amount to an appropriation. It is entirely for loan purposes. . . .

I respectfully submit that it must call for an appropriation out of the general funds of the Treasury in order to violate the rules of the House. This permits the use of money raised by the sale of bonds under the Second Liberty Bond Act for loans to these public agencies, such loans to be repaid with interest.

I respectfully submit, complimenting my friend for having raised the point of order—and certainly, it is not a dilatory one, nor a casual one, one that demands respect—that the point of order does not lie against the language contained in the pending bill. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Chair agrees with the gentleman from South Dakota that the point which has been raised is not a casual point of order. As a matter of fact, as far as the Chair has been able to ascertain, this is the first time a point of order has been raised on this issue as violative of clause 4 of rule XXI.

As the Chair sees the point of order, the issue involved turns on the meaning of the word "appropriation." "Appropriation," in its usual and customary interpretation, means taking money out of the Treasury by appropriate legislative language for the support of the general functions of Government. The language before us does not do that. This language authorizes the Secretary of the Treasury to use pro-

ceeds of public-debt issues for the purpose of making loans. Under the language, the Treasury of the United States makes advances which will be repaid in full with interest over a period of years without cost to the taxpayers.

Therefore, the Chair rules that this language does not constitute an appropriation, and overrules the point of order.

MR. CASE of South Dakota: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. CASE of South Dakota: Would the Chair hold then that that language restricts the Secretary of the Treasury to using the proceeds of the securities issued under the second Liberty Bond Act and prevents him from using the proceeds from miscellaneous receipts or tax revenues?

THE CHAIRMAN: The Chair does not have authority to draw that distinction. The Chair is passing on the particular point which has been raised.

MR. CASE of South Dakota: However, Mr. Chairman, it would seem implicit in the ruling of the Chair and I thought perhaps it could be decided as a part of the parliamentary history. It might help some courts later on.

THE CHAIRMAN: The Chair can make a distinction between the general funds of the Treasury and money raised for a specific purpose by the issuance of securities. That is the point involved here.

### ***Scope of Debate***

### **§ 19.2 Debate on a point of order raised in the Com-**

**mittee of the Whole is within the discretion of the Chairman and must be confined to the point of order.**

On Apr. 13, 1951,<sup>(1)</sup> during consideration of S. 1, 1951 Amendments to the Universal Military Training and Service Act, Chairman Jere Cooper, of Tennessee, stated that debate on a point of order is controlled by the Chair and must be confined to the point of order.

MR. [ANTONI N.] SADLAK [of Connecticut]: Mr. Chairman, I offer an amendment.

THE CHAIRMAN: The Clerk will report the amendment, but the Chair will state that all time for debate has been exhausted.

The Clerk read as follows:

Amendment offered by Mr. Sadlak: Page 26, following the amendment offered by Mr. Walter, insert the following: "Any citizen of a foreign country. . . ."

MR. [CARL] VINSON [of Georgia]: Mr. Chairman, I make the point of order against the amendment that it is not germane to the pending bill.

THE CHAIRMAN: Does the gentleman from Connecticut desire to be heard on the point of order?

MR. SADLAK: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. SADLAK: Mr. Chairman, how much time will be allotted to me for that purpose?

1. 97 CONG. REC. 3909, 3910, 82d Cong. 1st Sess.

THE CHAIRMAN: That is in the discretion of the Chair. The gentleman's argument must be confined to the point of order.

### ***Violation of Ramseyer Rule***

#### **§ 19.3 A point of order that a committee report fails to comply with Rule XIII clause 3,<sup>(2)</sup> the Ramseyer rule, will not lie in the Committee of the Whole.**

On July 5, 1966,<sup>(3)</sup> during consideration of H.R. 14765, the Civil Rights Act of 1966, Chairman Richard Bolling, of Missouri, ruled whether a point of order that a committee report that failed to comply with Rule XIII clause 3, the Ramseyer rule, would lie in the Committee of the Whole.

MR. [EMANUEL] CELLER [of New York]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14765) to assure nondiscrimination in Federal and State jury selection and service . . . and for other purposes.

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Speaker, a point of order.

THE SPEAKER:<sup>(4)</sup> The question is on the motion offered by the gentleman from New York [Mr. Celler].

2. House Rules and Manual §745 (1979).

3. 112 CONG. REC. 16840, 89th Cong, 2d Sess.

4. John W. McCormack (Mass.).

MR. WILLIAMS: Mr. Speaker, a point of order.

THE SPEAKER: All those in favor of the motion will let it be known by saying "aye." All those opposed by saying "no."

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 14765, with Mr. Bolling in the chair.

MR. WILLIAMS: Mr. Chairman, a point of order. Mr. Chairman, I have a point of order. I was on my feet—

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

MR. [JOE D.] WAGGONER [Jr., of Louisiana]: Mr. Chairman.

THE CHAIRMAN: Under the rule, the gentleman from New York [Mr. Celler] will be recognized for 5 hours. . . .

MR. WILLIAMS: Mr. Chairman.

MR. CELLER: Mr. Chairman, I yield myself such time as I may care to use.

Mr. Chairman, Negroes propose to be free. Many rights have been denied and withheld from them. The right to be equally educated with whites. The right to equal housing with whites.

The right to equal recreation with whites.

MR. WILLIAMS: Mr. Chairman, a point of order.

MR. CELLER: Regular order, Mr. Chairman.

THE CHAIRMAN: The gentleman will state his point of order.

MR. WILLIAMS: Mr. Chairman, immediately before the House resolved itself into the Committee of the Whole House I was on my feet on the floor

seeking recognition for the purpose of making a point of order against consideration of H.R. 14765 on the ground that the report of the Judiciary Committee accompanying the bill does not comply with all the requirements of clause 3 of rule XIII of the rules of the House known as the Ramseyer rule and intended to request I be heard in support of that point of order. I was not recognized by the Chair. I realize technically under the rules of the House at this point, my point of order may come too late, after the House resolved itself into the Committee of the Whole House on the State of the Union.

MR. CELLER: Mr. Chairman.

MR. WILLIAMS: But I may say, Mr. Chairman, that I sought to raise the point of order before the House went into session. May I ask this question? Is there any way that this point of order can lie at this time?

THE CHAIRMAN: Not at this time. It lies only in the House, the Chair must inform the gentleman from Mississippi.

MR. WILLIAMS: May I say that the Parliamentarian and the Speaker were notified in advance and given copies of the point of order that I desired to raise, and I was refused recognition although I was on my feet seeking recognition at the time.

MR. [JOHN J.] FLYNT [of Georgia]: Mr. Chairman, I appeal the ruling of the Chair.

THE CHAIRMAN: The Chair will have to repeat that the gentleman from Mississippi is well aware that this present occupant of the chair is powerless to do other than he has stated.

MR. WAGGONER: Mr. Chairman, I appeal the ruling of the Chair.

THE CHAIRMAN: The question is, Shall the decision of the Chair stand as rendered?

The question was taken; and on a division (demanded by Mr. Williams) there were—ayes 139, noes 101.

The decision of the Chair was sustained.

**§ 19.4 After brief debate on whether a point of order that a committee report violated the Ramseyer rule could be entertained in the Committee of the Whole, the Committee on motion rose; the Speaker announced that because of confusion in the Chamber he had not heard the Member seeking recognition on the point of order and, since the Member stated that he had been seeking recognition, agreed to hear his point of order.**

On July 5, 1966,<sup>(5)</sup> after the Chairman of the Committee of the Whole refused to entertain a point of order that a committee report violated the Ramseyer Rule<sup>(6)</sup> and the Committee on appeal sustained that ruling, the Committee on motion rose. Speaker John W. McCormack, of Massachusetts, agreed to hear this point of order

5. 112 CONG. REC. 16840, 16842, 89th Cong. 2d Sess.

6. *House Rules and Manual* §745 (1979).

because he had not heard the Member, John Bell Williams, of Mississippi, seek recognition before the House resolved itself into the Committee of the Whole.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Bolling, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 14765) to assure nondiscrimination in Federal and State jury selection and service, to facilitate the desegregation of public education and other public facilities, to provide judicial relief against discriminatory housing practices, to prescribe penalties for certain acts of violence or intimidation, and for other purposes, had come to no resolution thereon.

THE SPEAKER: The Chair recognizes the gentleman from Mississippi.

MR. WILLIAMS: Mr. Speaker, the House resolved itself into the committee of the Whole House on the State of the Union a moment ago. When the question was put by the Chair, I was on my feet seeking recognition for the purpose of offering a point of order against consideration of the legislation. Although I shouted rather loudly, apparently the Chair did not hear me. Since the Committee proceeded to go into the Committee of the Whole, I would like to know, Mr. Speaker, if the point of order which I had intended to offer can be offered now in the House against the consideration of the bill; and, Mr. Speaker, I make such a point of order and ask that I be heard on the point of order.

THE SPEAKER: The Chair will state that the Chair did not hear the gen-

tleman make his point of order. There was too much noise. Under the circumstances the Chair will entertain the point of order.

### ***Rising of Committee Pending Decision***

**§ 19.5 A point of order having been raised in the Committee of the Whole against a bill reported by a nonappropriating committee, on grounds that it proposed an appropriation contrary to Rule XXI clause 5,<sup>(7)</sup> the Committee rose pending decision by the Chair on the point of order.**

On June 4, 1957,<sup>(8)</sup> during consideration of H.R. 6974, extending the Agricultural Trade Development and Assistance Act of 1954, the Committee of the Whole rose pending a decision by the Chairman on a point of order.

The Clerk read as follows:

*Be it enacted, etc.,* That the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended as follows: . . .

MR. [JOHN J.] RODNEY [of New York]: Mr. Chairman, I rise to a point of order against the entire bill, H.R. 6974, on the ground that it is a bill from a committee not having authority to report an appropriation. . . .

7. *House Rules and Manual* §846 (1979).

8. 103 CONG. REC. 8298, 8318, 8319, 85th Cong. 1st Sess.

MR. [HAROLD D.] COOLEY [of North Carolina]: . . . I am a little bit apprehensive that the point of order may be sustained, if the Chair is called upon to rule on it. But, I think it would be very unfortunate for us to delay final action on the bill, and in the circumstances we have no other alternative other than to move that the Committee do now rise, and so, Mr. Chairman, I make that motion.

THE CHAIRMAN: <sup>(9)</sup> The Chair is prepared to rule on the point of order, but the motion offered by the gentleman from North Carolina that the Committee do now rise is in order, and the Chair will put the question.

The question is on the motion offered by the gentleman from North Carolina.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Hays of Arkansas, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6974) to extend the Agricultural Trade Development and Assistance Act of 1954, and for other purposes, had come to no resolution thereon.

### ***Disposing of Points of Order Before Consideration of Bill for Amendment***

#### **§ 19.6 The Committee of the Whole agreed by unanimous consent to dispense with the reading of an appropriation bill for amendment and that**

9. Brooks Hays (Ark.).

**points of order and then amendments could be submitted immediately after the first reading of the bill had been dispensed with.**

On July 5, 1945,<sup>(10)</sup> the Committee of the Whole agreed to dispense with the reading of an appropriation bill, that the bill be considered as read, and that points of order and amendments be in order thereafter.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3649) with Mr. Sparkman in the chair.

The Clerk read the title of the bill.

On motion of Mr. Cannon of Missouri the first reading of the bill was dispensed with.

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, I ask unanimous consent that the bill be considered as read and that all Members desiring to submit amendments or points of order have leave to submit them at this time.

THE CHAIRMAN: <sup>(11)</sup> Is there objection to the request of the gentleman from Missouri?

There was no objection.

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, in view of the unanimous consent request that has just been granted, I make the point of order against the first item, National War Labor Board, on the ground that it is an appropriation not authorized by law.

10. 91 CONG. REC. 7226, 7227, 79th Cong. 1st Sess.

11. John J. Sparkman (Ala.).

MR. CANNON of Missouri: Mr. Chairman, I concede the point of order.

THE CHAIRMAN: The point of order is sustained.

MR. MARCANTONIO: Mr. Chairman, I make a point of order on the same grounds against the item for the Office of Defense Transportation on page 5.

MR. CANNON of Missouri: The point of order is conceded, Mr. Chairman.

THE CHAIRMAN: The gentleman from New York [Mr. Marcantonio] makes a point of order which the gentleman from Missouri [Mr. Cannon] concedes. The Chair sustains the point of order.

**§ 19.7 Where unanimous consent is granted that the remainder of an appropriation bill be considered as read and that all portions thereof be subject to amendments and to points of order, the Chair suggests that points of order be disposed of first since it will be too late to make such points after amendments to the bill have been considered.**

On Apr. 25, 1947,<sup>(12)</sup> during consideration of H.R. 3123, the Department of the Interior appropriations bill, 1948, Chairman Earl C. Michener, of Michigan, suggested a time for the raising of points of order against amendments to the bill.

MR. [ROBERT F.] JONES of Ohio: Mr. Chairman, I ask unanimous consent

that the remainder of the bill be considered as read and that all portions thereof be subject to amendment and to points of order.

THE CHAIRMAN: Is there objection to the request of the gentleman from Ohio?

There was no objection.

THE CHAIRMAN: The Chair suggests that the points of order be disposed of first under this procedure, before the amendments.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, a point of order. . . .

My point of order, Mr. Chairman, is that that is legislation amending a previous act and not within the purview of this bill making appropriations for fiscal 1948. It constitutes legislation on an appropriation bill for it destroys existing legislation.

THE CHAIRMAN: This language changes a contract authorization contained in a previous appropriation bill passed by another Congress. The Chair sustains the point of order.

Are there any further points of order to be made to the bill? If so, they will be taken up first since it will be too late to make points of order after amendments to the bill have been considered.

## § 20. Timeliness

Points of order on general appropriation bills are usually reserved in the House at the time of reference to the Committee of the Whole (to the Union Calendar) to permit the Committee to strike

12. 93 CONG. REC. 4098, 80th Cong. 1st Sess.

out portions in violation of the rules.<sup>(13)</sup> This reservation is necessary only on general appropriation bills;<sup>(14)</sup> failure to reserve the point of order precludes a ruling on it because the Chairman may not take away from the Committee of the Whole a portion of a bill committed to it by the House.<sup>(15)</sup> Not all points of order on appropriation bills must be reserved prior to reference to the Committee of the Whole, however. Points of order against the consideration of an appropriation bill, since made in the House, need not be reserved in advance. A point of order based on a rule which prohibits reporting of bills or joint resolutions carrying appropriations by committees which do not have jurisdiction to report appropriations may be made anytime.<sup>(16)</sup>

Generally, points of order against a provision in a bill or amendment are properly made when that provision or amendment is reached in the reading. Points of order against bills in

their entirety are normally in order when called up.

Some points of order may not be raised in the Committee of the Whole. Those relating to a comparative print of proposed changes in law,<sup>(17)</sup> printing a bill and hearings prior to floor consideration,<sup>(18)</sup> and failure of a quorum to be present in a standing committee when a bill was reported<sup>(19)</sup> come too late in the Committee of the Whole; they should be raised in the House against consideration of the bill pending the motion to resolve into the Committee.

A point of order against a bill or a portion thereof based upon lack of committee jurisdiction of the committee reporting the bill comes too late when the bill is under consideration in Committee of the Whole, the proper remedy being the motion to correct an erroneous reference under Rule XXII clause 4 prior to the reporting of the bill.<sup>(1)</sup>

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### ***On Ramseyer Rule***

#### **§ 20.1 The point of order that a report fails to comply with**

13. 5 Hinds' Precedents §§6921–6925; 8 Cannon's Precedents §3450.

Points of order on appropriation bills generally, see Ch. 25, *infra*.

14. 5 Hinds' Precedents §6926.

15. §20.11, *infra*.

16. Rule XXI clause 5, *House Rules and Manual* §846 (1979); and 7 Cannon's Precedents §2148.

17. §§20.1–20.3, *infra*.

18. §20.4, *infra*.

19. §20.5, *infra*.

1. See House Rules and Manual §854 (1979). See also 4 Hinds' Precedents §4372; 7 Cannon's Precedents §§2112, 2114, 2115.

**the requirement that proposed changes in law be indicated typographically is properly made when the bill is called up in the House and before the House resolves into the Committee of the Whole.**

On June 13, 1959,<sup>(2)</sup> Speaker pro tempore John W. McCormack, of Massachusetts, stated that the point of order that a report fails to comply with the requirement that proposed changes in law be indicated typographically as required by the Ramseyer rule, Rule XIII clause 3,<sup>(3)</sup> is properly made when the bill is called up in the House and before the House resolves into the Committee of the Whole.<sup>(4)</sup>

MR. [THOMAS G.] ABERNETHY [of Mississippi]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6893) to amend the District of Columbia Stadium Act of 1957. . . .

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I desire to make a point of

order against the consideration of the bill and the report. When is the proper time to seek recognition for this purpose?

THE SPEAKER PRO TEMPORE: This is the proper time for the gentleman to make this point of order.

MR. GROSS: . . . I submit, Mr. Speaker, and make the point of order, that this report No. 643, does not conform to rule XIII, otherwise known as the Ramseyer rule.

**§ 20.2 The point of order that a report fails to comply with the Ramseyer rule comes too late after the House has resolved into the Committee of the Whole for consideration of the bill.**

On Aug. 17, 1949,<sup>(5)</sup> during consideration of House Joint Resolution 339, amending an act making temporary appropriations for fiscal year 1950, as amended (continuing resolution), Chairman Jere Cooper, of Tennessee, indicated the time for raising a point of order that a report does not comply with the Ramseyer rule.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I make a point of order. I was on my feet urging a point of order when the motion was made to go into committee. I make the point of order that this bill is not properly before the House, for the simple reason that the report does not comply

2. 105 CONG. REC. 13226, 13227, 86th Cong. 1st Sess. See 114 CONG. REC. 24245, 24252, 90th Cong. 2d Sess., July 30, 1968, for another illustration of this principle.

3. *House Rules and Manual* §745 (1979).

4. See 8 Cannon's Precedents §2243 for another precedent which states this principle.

5. 95 CONG. REC. 11654, 81st Cong. 1st Sess.

with the Ramseyer rule, and therefore the membership is not properly informed as to what had obtained.

THE CHAIRMAN: Of course, that point of order would have to be made in the House and not in Committee of the Whole. The point of order comes too late, and the Chair overrules the point of order.

**§ 20.3 On appeal, the Committee sustained the Chair's ruling that a point of order against a committee report comes too late after the House has resolved itself into the Committee of the Whole.**

On July 5, 1966,<sup>(6)</sup> during consideration of H.R. 14765, the Civil Rights Act of 1966, the Committee of the Whole on appeal sustained a ruling of Chairman Richard Bolling, of Missouri, on the timeliness of a point of order that a committee report violates Rule XIII clause 3,<sup>(7)</sup> the Ramseyer rule.

MR. [JOHN BELL] WILLIAMS [of Mississippi]: Mr. Chairman.

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I yield myself such time as I may care to use.

Mr. Chairman, Negroes propose to be free. Many rights have been denied and withheld from them. The right to be equally educated with whites. The

right to equal housing with whites. The right to equal recreation with whites.

MR. WILLIAMS: Mr. Chairman, point of order.

MR. CELLER: Regular order, Mr. Chairman.

THE CHAIRMAN: The gentleman will state his point of order.

MR. WILLIAMS: Mr. Chairman, immediately before the House resolved itself into the Committee of the Whole House I was on my feet on the floor seeking recognition for the purpose of making a point of order against consideration of H.R. 14765 on the ground that the report of the Judiciary Committee accompanying the bill does not comply with all the requirements of clause 3 of rule XIII of the rules of the House known as the Ramseyer rule and intended to request I be heard in support of that point of order. I was not recognized by the Chair. I realize technically under the rules of the House at this point, my point of order may come too late, after the House resolved itself into the Committee of the Whole House on the State of the Union.

MR. CELLER: Mr. Chairman.

MR. WILLIAMS: But I may say, Mr. Chairman, that I sought to raise the point of order before the House went into session. May I ask this question? Is there any way that this point of order can lie at this time?

THE CHAIRMAN: Not at this time. It lies only in the House, the Chair must inform the gentleman from Mississippi.

MR. WILLIAMS: May I say that the Parliamentarian and the Speaker were notified in advance and given copies of the point of order that I desired to

6. 112 CONG. REC. 16840, 16842, 89th Cong. 2d Sess.

7. House Rules and Manual §745 (1979).

raise, and I was refused recognition although I was on my feet seeking recognition at the time.

MR. [JOHN J.] FLYNT [Jr., of Georgia]: Mr. Chairman, I appeal the ruling of the Chair.

THE CHAIRMAN: The Chair will have to repeat that the gentleman from Mississippi is well aware that this present occupant of the chair is powerless to do other than he has stated.

MR. [JOSEPH D.] WAGGONER [Jr., of Louisiana]: Mr. Chairman, I appeal the ruling of the Chair.

THE CHAIRMAN: The question is, Shall the decision of the Chair stand as rendered?

The question was taken; and on a division (demanded by Mr. Williams) there were—ayes 139, noes 101.

The decision of the Chair was sustained.<sup>(8)</sup>

### ***Printing of Bill and Hearings***

**§ 20.4 After the House has resolved itself into the Committee of the Whole it is too late to make a point of order that the bill and hearings have not been printed and that minority views do not accompany the report.**

On Nov. 4, 1943,<sup>(9)</sup> during consideration of H.R. 4598, the first

8. See § 18.4, *supra*, for a precedent relating to entertainment of this point of order by the Speaker after the Committee of the Whole rose on motion.

9. 89 CONG. REC. 9121, 78th Cong. 1st Sess.

supplemental national defense appropriations bill, Chairman John J. Sparkman, of Alabama, ruled untimely a point of order that a bill and hearings had not been printed and that minority views did not accompany the report.

MR. [EARL] WILSON [of Indiana]: Then, Mr. Chairman, I make the point of order against further consideration of the bill on the ground that it has not been printed and presented to the House, and that the majority hearings have not been printed and presented to the House 24 hours ahead of the time when the bill is called up. Further, the minority views have not been printed.

THE CHAIRMAN: The point of order comes too late. The House has already committed the bill to the Committee of the Whole House on the state of the Union and the bill is now properly before the Committee for its consideration. The point of order does not lie at this time.

### ***Quorum in Standing Committee***

**§ 20.5 Points of order against a bill on the ground that a quorum of the standing committee was not present when the bill was ordered reported should be made in the House; such points come too late after the House has resolved itself into the Committee of the Whole for consideration of the bill.**

On June 14, 1946,<sup>(10)</sup> during consideration of S. 524, the national cemetery bill, Chairman Jere Cooper, of Tennessee, stated that points of order that a quorum of the standing committee was not present when the bill was ordered reported should be made in the House.

MR. [FOREST A.] HARNESS of Indiana. Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. HARNESS of Indiana: At what time would a point of order lie against the bill on the ground that the committee reporting it was without jurisdiction because at the time it reported the bill there was not a quorum present?

THE CHAIRMAN: Answering the gentleman's parliamentary inquiry the Chair will state that such a point of order would be too late now that the House is in the Committee of the Whole House on the State of the Union. Such a point of order should be made in the House before consideration of the bill.

### ***Effect of Commencement of Debate***

#### **§ 20.6 A point of order in the Committee of the Whole against an amendment to an appropriation bill comes too late if there has been debate on the amendment.**

10. 92 CONG. REC. 6961, 79th Cong. 2d Sess.

On Apr. 25, 1947,<sup>(11)</sup> during consideration of H.R. 3123, the Department of the Interior appropriations bill, 1948, Chairman Earl C. Michener, of Michigan, held that a point of order came too late after commencement of debate.

MR. [LOWELL] STOCKMAN [of Oregon]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Stockman: Page 34, line 11, strike out "\$125,000" and insert "\$2,500,000."

MR. STOCKMAN: Mr. Chairman, the amount allowed by the budget for this item—

MR. [ROBERT F.] JONES of Ohio: Mr. Chairman, I would like to make a point of order against this amendment, but will reserve it for the moment.

MR. [CARL] HINSHAW [of California]: Mr. Chairman, I make the point of order that that comes too late.

THE CHAIRMAN: The gentleman from Ohio makes a point of order. The gentleman from Oregon had already been recognized and had started debate. The Chair wants to be extremely fair and not too technical, but that is the situation. The Chair is constrained to hold that the point of order comes too late.

#### **§ 20.7 A Member who has shown due diligence has been recognized to make a**

11. 93 CONG. REC. 4079, 80th Cong. 1st Sess. See 88 CONG. REC. 754, 77th Cong. 2d Sess., Jan. 27, 1942, for another example of this principle.

**point of order against a proposed amendment even though the sponsor of the amendment has commenced his remarks.**

On June 23, 1945,<sup>(12)</sup> during consideration of House Joint Resolution 101, extending the Price Control and Stabilization Acts, Chairman Jere Cooper, of Tennessee, recognized a Member to make a point of order notwithstanding the fact that the sponsor of the amendment had commenced his remarks.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Case of South Dakota: Insert a new section after section 2 to read as follows:

"The Secretary of Agriculture shall confer with the Secretary of War and the Secretary of the Navy from time to time on the supplies of meat, sugar, poultry, dairy and vegetable products available in continental United States for military and civilian needs and said Secretary of Agriculture is authorized and directed to borrow or divert from military channels for critical civilian needs such stocks or supplies as he finds can be spared by the military and in such amounts as he can certify to the Secretary of War or the Secretary of the Navy can and will be restored by the time they are needed."

MR. CASE of South Dakota: Mr. Chairman, this amendment proposes—

12. 91 CONG. REC. 6597, 6598, 79th Cong. 1st Sess.

MR. [BRENT] SPENCE [of Kentucky]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. SPENCE: Mr. Chairman, I make the point of order that the amendment is not germane to the bill; that it includes matters not contemplated by the bill, and it goes far beyond the scope of the bill.

MR. CASE of South Dakota: Mr. Chairman, I think the gentleman's point of order comes too late, because I had been recognized and started to debate the amendment.

THE CHAIRMAN: The gentleman from Kentucky was on his feet, and the point of order does not come too late. Does the gentleman from South Dakota desire to be heard on the point of order? . . .

MR. SPENCE: Mr. Chairman, I insist on the point of order.

THE CHAIRMAN: . . . [T]he Chair is of the opinion that the amendment is in order especially in view of the present form of the pending bill at this stage. The Chair overrules the point of order.

***Effect of Failure to Obtain Recognition to Debate***

**§ 20.8 Recognition of a Member by the Chair to offer an amendment does not give such Member the privilege of debating his amendment; consequently a point of order against an amendment may be made in a proper case even though a Member has started debate thereon if he**

**did not obtain recognition for that purpose (the Committee overruling the Chair on appeal).**

On Feb. 1, 1938,<sup>(13)</sup> during consideration of amendments to H.R. 9181, the District of Columbia appropriations bill of 1939, it was contended that a point of order against an amendment was untimely in that it had been made after debate had begun. The proceedings were as follows:

The Clerk reads as follows:

Amendment offered by Mr. Collins: On page 68, line 20, after the period, insert a new paragraph, as follows:

"Street lighting: For purchase, installation, and maintenance of public lamps; lampposts, street designations, lanterns, and fixtures of all kinds on streets, avenues, roads, alleys, and for all necessary expenses in connection therewith, including rental of storerooms, extra labor, operation, maintenance, and repair of motortrucks, this sum to be expended in accordance with the provisions of existing law, \$765,000: *Provided*, That this appropriation shall not be available for the payment of rates for electric street lighting in excess of those authorized to be paid in the fiscal year 1927, and payment for electric current for new forms of street lighting shall not exceed 2 cents per kilowatt-hour for current consumed."

MR. [ROSS A.] COLLINS [of Mississippi]: Mr. Chairman, the language that is incorporated in the amendment—

13. 83 CONG. REC. 1372, 1373, 75th Cong. 3d Sess.

MR. [JACK] NICHOLS [of Oklahoma]: Mr. Chairman, I make a point of order against the amendment.

MR. COLLINS: Eliminates the language against which the gentleman made the point of order.

MR. Chairman, I make the point of order that the gentleman's point of order comes too late.

THE CHAIRMAN:<sup>(14)</sup> The gentleman from Oklahoma makes a point of order on the amendment, and the gentleman from Mississippi makes the point of order that the point of order made by the gentleman from Oklahoma comes too late.

The point of order of the gentleman from Mississippi is sustained. . . .

MR. NICHOLS: If the Chair did recognize the gentleman from Mississippi I may say the Chair recognized him while I was on my feet taking the only opportunity presented to me to address the Chair, in order that I might direct my point of order to the Chair.

THE CHAIRMAN: That may be true. The Chair does not care to indulge in any controversy on that question with the gentleman from Oklahoma. The Chair is merely stating what occurred. The Chair may state further to the gentleman from Oklahoma, in deference to the situation which has developed here, that if that had been true, under the rules it would have been the duty of the Chair to have recognized a member of the committee in preference to any other Member on the floor. The Chair was acting under the limitations of the rule. . . .

MR. [JESSE P.] WOLCOTT [of Michigan]: Mr. Chairman, the rule, as I un-

14. William J. Driver (Ark.).

derstand it, is that if any action is taken on the amendment, then the point of order is dilatory. The only action that could have been taken was recognition by the Chair of the gentleman from Mississippi to debate his amendment.

I want to call the attention of the Chair to the fact the only manner in which the Chair can recognize a Member to be heard on this floor is to refer to the gentleman either by name or by the State from which the gentleman comes, and I call the attention of the Chair to the fact that the Chair in this particular instance did not say he recognized the gentleman from Mississippi or the gentleman [Mr. Collins], and for that reason there was no official proceeding and no official action taken between the time that the amendment was offered and the time the gentleman from Oklahoma made his point of order, and therefore the point of order was not dilatory.

THE CHAIRMAN: The Chair desires, in all fairness, to make this statement to the Committee, as well as directly to the gentleman from Michigan. Not only was the gentleman from Mississippi recognized, but he began an explanation of his amendment, and the Chair certainly presumes that the gentleman being on the floor at the time heard that; and when that occurred, the Chair does not think the gentleman will disagree with the Chair about the fact that the Chair is required, under the rules, to rule in deference to the situation that developed. The Chair does not desire to forestall proceedings and would be pleased to hear points of order, but the Chair must act within the definition of the rule.

MR. WOLCOTT: If the Chair will indulge me for a moment in that respect, the point I wish to make is this. The gentleman from Mississippi had no authority to address this Committee until he had been recognized by the Chair, and if the gentleman from Oklahoma made his point of order during a brief sentence by someone which had no right under the rules of this House even to be reported by the official reporter, then he cannot be estopped, under those circumstances, from making his point of order. The Chair of necessity must have recognized the gentleman from Mississippi to debate the amendment.

The offering of an amendment is not a proceeding which will estop the gentleman from Oklahoma from making his point of order. It is recognition by the Chair of another gentleman to discuss the amendment, and the gentleman could have discussed the amendment only after recognition was given. . . .

MR. NICHOLS: If the Chair has made a final ruling, I would, in the most respectful manner I know, request an appeal from the decision of the Chair.

THE CHAIRMAN: The gentleman from Oklahoma appeals from the decision of the Chair on the ruling of the Chair on the point of order, as stated.

The question before the Committee is, Shall the ruling of the Chair stand as the judgment of the Committee?

The question was taken, and the Chair announced that the noes had it.

So the decision of the Chair does not stand as the judgment of the Committee.

### ***Appeal of Chair's Ruling on Timeliness***

#### **§ 20.9 A ruling of the Chairman that a point of order is**

**untimely may be appealed to the Committee of the Whole.**

On Feb. 1, 1938,<sup>(15)</sup> during consideration of amendments to H.R. 9181, the District of Columbia appropriations bill, 1939, the Committee of the Whole overruled a decision of the Chairman that a point of order had been made too late. The Chair invoked the principle that a point of order on an amendment is made too late after commencement of debate on the amendment. But the Committee took the view that recognition to offer an amendment did not automatically extend to the privilege of debating that amendment, so that a point of order would be timely if the proponent of the amendment had commenced debate without first receiving recognition to debate.

***Against Appropriation Bill***

**§ 20.10 The time for making points of order against items in an appropriation bill is after the House has resolved itself into the Committee of the Whole and after the paragraph containing such items has been read for amendment.**

15. See §20.8, *supra*, for the relevant proceedings of this date.

On July 5, 1945,<sup>(16)</sup> during consideration of a motion that the House resolve into the Committee of the Whole for consideration of H.R. 3649, the war agencies appropriation bill, 1946, Speaker Sam Rayburn, of Texas, stated the rule as to the proper time to raise points of order against items in an appropriation bill.

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3649), making appropriations for war agencies for the fiscal year ending June 30, 1946, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent to dispense with general debate in the Committee of the Whole.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, if, as in this case, the bill contains many items that are subject to a point of order, is it not in order to make a point of order against sending this bill to the Committee of the Whole?

THE SPEAKER: Under the rules of the House, it is not.

MR. MARCANTONIO: Then the procedure to make the point of order is to make it as the bill is being read for amendment?

16. 91 CONG. REC. 7226, 7227, 79th Cong. 1st Sess.

THE SPEAKER: As the paragraphs in the bill are reached.

Is there objection to the request of the gentleman from Missouri?

There was no objection.

THE SPEAKER: The question is on the motion offered by the gentleman from Missouri.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3649) with Mr. Sparkman in the chair.

***Time to Reserve Point of Order of Legislation on Appropriation Bill***

**§ 20.11 Where points of order were not reserved on an appropriation bill when it was reported to the House and referred to the Committee of the Whole, points of order against a proposition in violation of Rule XXI clause 2,<sup>(17)</sup> as legislation on an appropriation bill, were overruled on the ground that the Chairman lacked authority to pass upon that question.**

On Apr. 8, 1943,<sup>(18)</sup> during consideration of H.R. 2409, the legislative and judiciary appropriation, 1944, Chairman James P.

17. *House Rules and Manual* §834 (1979).

18. 89 CONG. REC. 3150-53, 78th Cong. 1st Sess.

McGranery, of Pennsylvania, declined to rule on points of order that certain sections of a bill violated Rule XXI clause 2, allegedly legislation on an appropriation bill, because such points of order had not been reserved when the bill was reported to the House and referred to the Committee of the Whole.

The Clerk read as follows:

Salaries of clerks of courts: For salaries of clerks of United States circuit courts of appeals and United States district courts, their deputies, and other assistants, \$2,542,900.

. . .

MR. [FRANCIS E.] WALTER [of Pennsylvania]: Mr. Chairman, I make the point of order that the material contained in line 20, page 55, down to the end of the paragraph on page 56, line 11, is legislation on an appropriation bill.

MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Chairman, I make the point of order that there was no reservation made when this bill was introduced with reference to points of order, and the Record will bear me out. Therefore, a point of order against anything in the bill now is not in order. . . .

MR. WALTER: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. WALTER: Is not the Chair in the position at this moment of having to rule on the point of order made by the gentleman from Missouri?

THE CHAIRMAN: The Chair will have to rule unless the point of order is

withdrawn. In that case the Chair would not be required to rule.

The Chair is prepared to rule, if there is no withdrawal of the points of order.

In this connection the Chair feels that there is a duty upon all Members to read the rules, which are published. This is not just mere custom, as the Chair sees it.

The Journal discloses that there were no points of order reserved on the pending bill when it was reported to the House on April 6, 1943.

The Chair has been very deeply impressed with the decisions on this question which run back to 1837, particularly an opinion expressed by Chairman Albert J. Hopkins, of Illinois, on March 31, 1896—Hinds' Precedents, volume V, section 6923—in which it was stated:

In determining this question the Chair thinks it is important to take into consideration the organization and power of the Committee of the Whole, which is simply to transact such business as is referred to it by the House. Now, the House referred the bill under consideration to this Committee as an entirety, with directions to consider it. The objection raised by the gentleman from North Dakota would, in effect, cause the Chair to take from the Committee the consideration of part of this bill, which has been committed to it by the House. The Committee has the power to change or modify this bill as the Members, in their wisdom, may deem wise and proper; but it is not for the Chairman, where no points of order were reserved in the House against the bill. . . . The effect would be, should the Chair sustain the point of order made by the gentleman from North Dakota, to take from the consideration of the

Committee of the Whole a part of this bill which has been committed to it by the House without reservation of this right to the Chairman.

Hopkins then held that he had no authority to sustain a point of order against an item in the bill.

The present occupant of the chair feels constrained to follow the precedents heretofore established and sustains the point of order made by the gentleman from Missouri [Mr. Cochran].

MR. [EARL C.] MICHENER [of Michigan]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. MICHENER: For the sake of clarity and for the future, and may I say I have great respect for the Chairman's ruling, will the Chair differentiate between an appropriation bill in his final decision as written, that is, differentiate between the Hopkins decision which applies for all logical reasons to all legislative committees the same as it does to the Appropriations Committee?

THE CHAIRMAN: The Chair thinks if the gentleman will read clause 2 of rule XXI he will find that provision applies merely to appropriation bills, while clause 4 of rule XXI applies to legislative bills coming from committees not having appropriating powers.

MR. MICHENER: That is the decision.

THE CHAIRMAN: Yes.

MR. WALTER: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. WALTER: As I understood the Chairman, the point of order was overruled?

THE CHAIRMAN: The Chair held that in the Chair's opinion he cannot pass upon the question raised by the gentleman. The Chair feels this bill was given to the Committee of the Whole House on the State of the Union in its entirety and that the Chair cannot under the present circumstances sustain a point of order against an item.

MR. WALTER: I understand that, but does the Chair mean that the point of order made by the gentleman from Missouri is sustained?

THE CHAIRMAN: The Chair sustained the point of order made by the gentleman from Missouri and overruled the point of order made by the gentleman from Pennsylvania.

MR. [KARL] STEFAN [of Nebraska]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. STEFAN: May I ask the Chair if the ruling affects page 56, line 12, down to line 25, the part of the bill which had not been read?

THE CHAIRMAN: The Clerk has not read that part of the bill.

MR. STEFAN: Then it has no effect upon the language appearing on page 56, lines 1 to 11?

THE CHAIRMAN: The Chair's decision just now given will affect every item in the bill.

MR. STEFAN: In the entire bill?

THE CHAIRMAN: Yes.

MR. [FRANCIS H.] CASE [of South Dakota]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. CASE: Mr. Chairman, I note in reading the precedent to which the

Chair has referred, volume 5, Hinds Precedents, page 957, that the Chairman at that time recognized that this was a very close question. The Chair raised this question: "The very most that could be done would be to report the point of order back to the House for its decision."

In other words, in taking the point of view that since the House had referred the bill to the Committee, no such question rose, the Chair might refer it back to the House for further instruction, which would be within the ruling that the Chair cited.

THE CHAIRMAN: As the Chair read the particular case, that was the suggestion made by the Chairman, but there is nothing in the decision to show that that was actually done.

### ***Effect of Failure to Raise Point of Order***

**§ 20.12 If no point of order is raised against an amendment proposing legislation on an appropriation bill being considered in the Committee of the Whole, the amendment may be perfected by germane amendments which provide exceptions from the language permitted to remain but do not add further legislation.**

On Jan. 31, 1938,<sup>(19)</sup> during consideration of amendments to H.R. 9181, the District of Columbia appropriations bill, 1939, Chairman

<sup>19</sup> 83 CONG. REC. 1309, 1312, 75th Cong. 3d Sess.

William J. Driver, of Arkansas, stated that if no point of order is raised against it, an amendment proposing legislation on an appropriations bill may be perfected by germane amendments which do not add further legislation on an appropriations bill.

The Clerk read as follows:

Amendment offered by Mr. [Mil-lard F.] Caldwell [of Florida]: Page 13, line 2, after the amendment offered by Mr. Kennedy, insert a new paragraph, as follows:

"For a complete investigation of the administration of public relief in the District of Columbia, to be made under the supervision and direction of the Commissioners, including the employment of personal services without reference to the Classification Act of 1923, as amended, and civil-service requirements, \$5,000." . . .

The Clerk read as follows:

Amendment offered by Mr. Caldwell to the amendment pending: After the word "relief" in the proposed amendment, insert "not including the activities of the Works Progress Administration."

MR. [CLAUDE A. ] FULLER [of Arkansas]: Mr. Chairman, I make the point of order against the amendment for the reason that it is legislation on an appropriation bill and, furthermore, that it seeks to make an appropriation for an item not authorized by law. . . .

THE CHAIRMAN: Objection is heard. The Chair is ready to rule. The gentleman from Florida offers an amendment to the pending amendment in the following language:

After the word "relief" in the proposed amendment, insert "not in-

cluding the activities of the Works Progress Administration."

That is the amendment to the amendment offered and to which the gentleman from Arkansas addresses his point of order. The original amendment proposed legislation on an appropriation bill, but no point of order was raised against it. That being so, an amendment that would contain an exception would be germane and in order, certainly. Therefore, the point of order that the gentleman directs to the amendment to the amendment must be overruled.

### ***Point of Order as to Diversion of Appropriated Funds***

**§ 20.13 A point of order against an amendment to a legislative bill proposing an appropriation of funds that have already been appropriated is in order even though debate has started on such amendment, since Rule XXI clause 5 permits such a point of order "at any time."**

On July 29, 1953,<sup>(1)</sup> during debate on an amendment to H.R. 6016, an emergency famine relief bill, Chairman Glenn R. Davis, of Wisconsin, sustained a point of order against the amendment to a bill reported from a committee not having authority to report appropriations, on the ground that it

1. 99 CONG. REC. 10398, 83d Cong. 1st Sess.

proposed an appropriation of funds previously appropriated for a specific purpose.

MR. [PAUL C.] JONES of Missouri: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. JONES of Missouri: Mr. Chairman, would this be the proper time to make a point of order against some wording in section [2]?

THE CHAIRMAN: The Chair will hear the gentleman to state the point of order.

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Chairman, may I suggest that the point of order comes too late, the section has been read.

MR. JONES of Missouri: We are debating on the whole bill, and I suggest that we do not want to pass a bill without considering every part of it.

THE CHAIRMAN: Section ( 2) is now under consideration.

MR. JONES of Missouri: Mr. Chairman, that is what I want to make my point of order on.

THE CHAIRMAN: The gentleman will state the point of order.

MR. JONES of Missouri: Mr. Chairman, I make a point of order against the wording beginning on line 24:

Any assets available to the Commodity Credit Corporation may be used in advance of such appropriations or payments, for carrying out the purposes of this act.

Mr. Chairman, I make that point of order on the ground that when I offered an amendment authorizing that the \$100 million be taken from funds heretofore appropriated for the Mutual

Security Administration, the point of order was sustained that those funds were already appropriated for a specific purpose and that we could not divert such funds. I am making the same point of order now that any assets available to the Commodity Credit Corporation which have heretofore been appropriated would be by the same token diverted to this purpose for the use of the Mutual Security Administration. In other words, the situation if this is permitted to stay in the bill would be that we could not divert Mutual Security funds to carry out this, but that we could divert agricultural funds to carry out a mutual-security program. . . .

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. FULTON: Mr. Chairman, is it not the parliamentary situation here that debate has commenced on section 2 at the particular time when the point of order is being made by the gentleman from Missouri [Mr. Jones]?

THE CHAIRMAN: The Chair is advised that this point of order may be made at any time of the consideration of the section.

The Chair is ready to rule. Since the previous point of order was sustained on similar grounds, the Chair now sustains the point of order of the gentleman from Missouri [Mr. Jones].

*Parliamentarian's Note:* Rule XXI clause 5, *House Rules and Manual* § 846 (1979) provides:

No bill or joint resolution carrying appropriations shall be reported by any

committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.

***Point of Order as to Germaneness***

**§ 20.14 A point of order as to the germaneness of an amendment may be reserved when the amendment is read, and the Chairman rules on the point of order when the sponsor of the amendment ends his five-minute debate.**

On Apr. 13, 1946,<sup>(2)</sup> during consideration of H.R. 6064, extending the Selective Service and Training Act, with Chairman Alfred L. Bulwinkle, of North Carolina, presiding, the following proceedings took place:

MR. [ROSS] RIZLEY [of Oklahoma]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Rizley: On page 2, line 18, after the word "months" and before the word "unless", insert the following: "except that every individual heretofore inducted under the provision of sub-

section (a) who has a wife and one or more legitimate children, shall upon his request in writing be excused from further service and shall be separated from the service within 60 days from and after the effective date of this act."

MR. [ANDREW J.] MAY [of Kentucky]: Mr. Chairman, I reserve a point of order against the amendment. . . .

Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. MAY: Having reserved a point of order on the amendment, Mr. Chairman, does that point of order have to be ruled upon when the party offering it finishes his debate?

THE CHAIRMAN: It should be. The gentleman will state his point of order.

MR. MAY: Mr. Chairman, my point of order is that this amendment has the effect of requiring the Army to discharge a certain group of people that are already in the service. The statute under consideration to which the gentleman's pending amendment is offered is an induction statute and not a discharge law.

THE CHAIRMAN: Does the gentleman from Oklahoma desire to speak on the point of order?

MR. RIZLEY: I think certainly the amendment is pertinent to this very section of the bill. The bill provides that no one can be taken into the service for more than 18 months, and I simply offered an amendment which excepts married men already in the service and says that they shall be discharged within 60 days from the effective date of this act.

THE CHAIRMAN: The Chair is ready to rule on the point of order.

2. 92 CONG. REC. 3660-63, 79th Cong. 2d Sess.

The amendment offered by the gentleman from Oklahoma relates to the discharge of men. It is not germane either to the section or to the bill. The Chair sustains the point of order.

***Effect of Agreement to Dispense With Reading***

**§ 20.15 Where the Committee of the Whole agrees that the remainder of an appropriation bill be considered as read and open at any point to points of order and amendments, the Chair asks if there are any points of order and then if there are any amendments; points of order against portions of the bill made subsequent to the offering of amendments are not recognized.**

On Aug. 19, 1949,<sup>(3)</sup> during consideration of H.R. 6008, the supplemental appropriations bill, 1950, Chairman Aime J. Forand, of Rhode Island, declined to entertain a point of order against a portion of the bill after an amendment was offered. The Chairman noted that he had requested that points of order be raised when the further reading of the bill was dispensed with.

MR. [LOUIS C.] RABAUT [of Michigan]: Mr. Chairman, I ask unanimous

3. 95 CONG. REC. 11870, 11876, 81st Cong. 1st Sess.

consent that the remainder of the bill be considered as read and be open at any point to points of order and amendments.

THE CHAIRMAN: Is there objection to the request of the gentleman from Michigan?

There was no objection.

THE CHAIRMAN: Are there any points of order?

If not, are there any amendments?

MR. [WILLIAM M.] WHEELER [of Georgia]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Wheeler: On page 6, line 17, strike out all the paragraph to and including all of lines 16 on page 7. . . .

MR. [JAMES P.] SUTTON [of Tennessee]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. SUTTON: Mr. Chairman, I make the point of order against the language on page 19 that it is legislation on an appropriation bill.

THE CHAIRMAN: The point of order comes too late. At the time the further reading of the bill was dispensed with, the Chair requested Members desiring to make points of order to do so at that time.

The Chair recognizes the gentleman from Nebraska [Mr. Miller].

***Report on Striking Language From Senate Bill***

**§ 20.16 Where language in violation of Rule XXI clause 5<sup>(4)</sup>**

4. House Rules and Manual §846 (1979), which makes subject to

**is stricken from a Senate bill in the Committee of the Whole by a point of order, the Chairman reports that fact to the House when the measure is reported to the House.**

On July 31, 1957,<sup>(5)</sup> after the Committee of the Whole rose and reported a bill, Chairman George H. Mahon, of Texas, reported that language in violation of then Rule XXI clause 4 (now clause 5), had been stricken from the bill by the Committee.

THE CHAIRMAN: The time of the gentleman from Michigan has expired.

All time has expired.

The Committee will rise.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Mahon, Chairman of the Committee of the Whole House on the State of the Union, stated that that Committee having had under consideration the bill (S. 1856) to provide for the development and modernization of the national system of navigation and traffic-control facilities to serve present and future needs of civil and military

points of order appropriation measures reported from committees that do not have jurisdiction over appropriations.

5. 103 CONG. REC. 13182, 13183, 85th Cong. 1st Sess. The point of order against the language in question, as being an appropriation on a legislative bill, is at p. 13056 (July 30 1957).

aviation, and for other purposes, pursuant to House Resolution 361, he reported the same back to the House.

The Chairman also reported that the language in the bill on page 7, line 12, reading as follows: "and unexpended balances of appropriations, allocations, and other funds available or" was stricken out on a point of order.

*Parliamentarian's Note:* If the Senate bill passes the House in this form, it is messaged to the Senate as having been passed with an amendment, although the House does not vote separately on the language stricken in Committee of the Whole on a point of order.

### ***Points of Order Against Measure Committed to Conference***

**§ 20.17 Where a House bill with Senate amendments has been sent to conference and the stage of disagreement reached, it is too late to raise a point of order that the amendments of the Senate should have been considered in the Committee of the Whole pursuant to Rule XX clause 1.<sup>(6)</sup>**

On Oct. 20, 1966,<sup>(7)</sup> during consideration of Conference Report

6. *House Rules and Manual* §827 (1979).

7. 112 CONG. REC. 28240, 28241, 89th Cong. 2d Sess.

No. 2327, on H.R. 13103, the Foreign Investment Tax Act of 1966, Speaker John W. McCormack, of Massachusetts, stated that a point of order under Rule XX clause 1, that a particular Senate amendment should have been considered in the Committee of the Whole, comes too late after conferees have reported.

MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Speaker, I call up the conference report on the bill (H.R. 13103) to amend the Internal Revenue Code of 1954 to provide equitable tax treatment for foreign investment in the United States, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

THE SPEAKER: Is there objection to the request of the gentleman from Arkansas?

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I desire to make a point of order against title III of the conference report.

THE SPEAKER: The gentleman will state his point of order.

MR. SMITH of Virginia: Mr. Speaker, this point of order is directed at title III of the conference report. That title is the one that provides for the contribution of \$1 apiece from any taxpayer who wishes to do so, to be used as a fund to be divided between the political parties in Presidential elections. The title itself has never been before the House. This is a Senate amendment to the bill that the gentleman from Arkansas has just called up. It is

not germane to that bill itself and comes under the prohibition of rule XX of the rules of the House. . . .

If that amendment had been offered when the bill was under consideration in the House it would have had to be under rule XX, and considered under rule XX that I have just read.

Now, because it is a bill which is an appropriation bill we cannot consider it except in the Committee of the Whole House on the State of the Union. This rule provides that if there is put on it a Senate amendment and it comes back it is subject to a point of order that it has not been considered in the Committee of the Whole House on the State of the Union. . . .

THE SPEAKER: The Chair is prepared to rule.

The gentleman from Virginia makes the point of order that title III of the conference report contravenes the first sentence of rule XX:

Any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the State of the Union, if, originating in the House, it would be subject to that point:

Without passing upon the germaneness of the amendment, because that point was not raised, the Chair calls attention to the fact that the Senate amendment went to conference by unanimous consent. Where unanimous consent was obtained, the effect of that is to circuit rule XX, in other words, to waive or vitiate that portion of rule XX.

If objection had been made at the point when the unanimous consent request was made to send the bill to conference, then the bill could have been

referred to the proper standing committee, and then, if and when reported out of the committee would have been brought up for consideration in the Committee of the Whole House on the State of the Union.

At this point, and under the parliamentary situation, the bill was sent to conference by unanimous consent; and this applies to all bills that go to conference by unanimous consent, if there be provisions therein that might be subject to the first sentence of rule XX. If there is no objection made at that time, the bill goes to conference; which in this case had the effect of suspending that portion of rule XX. Therefore, it is properly before the House at the present time as part of the conference report and the Chair overrules the point of order.

MR. SMITH of Virginia: Mr. Speaker, may I add one comment since this is a very important question.

THE SPEAKER: The Chair will, of course, hear the gentleman.

MR. SMITH of Virginia: Mr. Speaker, this did not go to conference by unanimous consent because it was never in the House bill. It was in the Senate bill and it never got in the House bill until last night.

THE SPEAKER: The Chair will call to the attention of the gentleman from Virginia that the unanimous consent request was made to take a bill from the Speaker's desk with Senate amendments thereto, and disagree to the Senate amendments and request a conference.

## F. RISING OF THE COMMITTEE OF THE WHOLE

### § 21. Generally

The Committee of the Whole may rise formally or informally. Sometimes, on the informal rising of the Committee of the Whole, the House by unanimous consent transacts unrelated business, such as the presentation of enrolled bills, the swearing in of a Member, or consideration of the message.<sup>(8)</sup>

8. 4 Hinds' Precedents §§ 4788–4791.

See Jefferson's Manual, *House Rules and Manual* §§ 330, 331, 333, 334, 563 (1973), for parliamentary law regarding rising of the Committee of the Whole.

The Committee of the Whole rises automatically on adoption of the recommendation that the enacting clause be stricken out.<sup>(9)</sup>

### *Formal and Informal Rise*

**§ 21.1 When the Committee of the Whole rises—that is, concludes or suspends its proceedings—it may do so either formally or informally. When it rises informally, it rises at the direction of the Chairman, without a formal mo-**

9. 8 Cannon's Precedents § 2629.

**tion from the floor. Thus the Committee may rise informally to receive a message from the President.**

On Apr. 8, 1967,<sup>(10)</sup> the Committee of the Whole rose informally to receive a message from the President.

THE CHAIRMAN:<sup>(11)</sup> The Committee will rise informally to receive a message.

The Speaker assumed the Chair.

THE SPEAKER:<sup>(12)</sup> The Chair will receive a message.

A message in writing from the President of the United States was communicated to the House by Mr. Jones, one of his secretaries.

THE SPEAKER: The Committee will resume its sitting.

**§ 21.2 The Committee of the Whole may rise, informally, immediately after having resolved into the Committee following a quorum call in Committee and the Chair's report to the House.**

On Apr. 21, 1969,<sup>(13)</sup> the Committee of the Whole rose, informally, immediately after having

resolved into the Committee following a quorum call.

MR. [FRANK E.] EVANS of Colorado: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN:<sup>(14)</sup> The Chair will count. . . .

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Price of Illinois, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 514, and finding itself without a quorum, he had directed the roll to be called, when 325 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

THE CHAIRMAN: The Committee will rise informally in order that the House may receive a message.

The Speaker assumed the chair.

THE SPEAKER:<sup>(15)</sup> The Chair will receive a message.

A message in writing from the President of the United States was communicated to the House by Mr. Geisler, one of his secretaries.

THE SPEAKER: The Committee will resume its sitting.

***Automatic Rise Pursuant to Agreement***

**§ 21.3 When the House has limited general debate to a time certain and provided for the**

10. 113 CONG. REC. 8585, 90th Cong. 1st Sess. See 110 CONG. REC. 18262, 18263, 88th Cong. 2d Sess., Aug. 6, 1964, for another illustration of this principle.

11. John H. Dent (Pa.).

12. John W. McCormack (Mass.).

13. 115 CONG. REC. 9705, 91st Cong. 1st Sess.

14. Charles M. Price (Ill.).

15. John W. McCormack (Mass.).

**Committee of the Whole to rise at the conclusion of that time, the Committee then rises without a motion or vote.**

On Apr. 9, 1963,<sup>(16)</sup> upon arrival of the time to close debate during consideration of H.R. 5517, making supplemental appropriations for fiscal year 1963, the Committee of the Whole rose without motion or vote.

MR. [ALBERT] THOMAS [of Texas]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 5517, making supplemental appropriations for the fiscal year ending June 30, 1963, and for other purposes; and, pending that motion, Mr. Speaker, I ask unanimous consent that general debate on the bill be concluded not later than 5 p.m. today, one-half of the time to be controlled by the gentleman from Ohio [Mr. Bow], and one-half by myself, and that at the conclusion of general debate today the Committee will rise. . . .

THE SPEAKER:<sup>(17)</sup> Is there objections to the request of the gentleman from Texas?

There is no objection.

THE SPEAKER: The question is on the motion offered by the gentleman from Texas [Mr. Thomas].

The motion was agreed to. . . .

THE CHAIRMAN:<sup>(18)</sup> The time of the gentleman from California has expired,

all time for debate has expired. The hour is 5 o'clock. Under the previous order of the House the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Bolling, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5517) making supplemental appropriations for the fiscal year ending June 30, 1963, and for other purposes, had come to no resolution thereon.

***Effect of Motion to Rise on Amendments***

**§ 21.4 Where the Committee of the Whole during consideration of amendments to a bill votes merely that the Committee rise, the Chairman reports to the House that the Committee has considered the bill but come to no resolution thereon; he does not under this procedure report the bill back to the House with amendments.**

On Aug. 24, 1949,<sup>(19)</sup> during consideration of H.R. 6070, to amend the National Housing Act, Chairman Mike Mansfield, of Montana, indicated the procedure to be followed when the Committee of the Whole votes to rise,

16. 109 CONG. REC. 6044, 6072, 88th Cong. 1st Sess.

17. John W. McCormack (Mass.).

18. Richard Bolling (Mo.).

19. 95 CONG. REC. 12186, 12187, 81st Cong. 1st Sess.

and the effect thereof on amendments taken up by the Committee.

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read, as follows:

Amendment offered by Mr. Marcantonio: On page 34, after the period on line 5, add a new subsection:

"Sec. —. Prohibition against discrimination. . . ."

THE CHAIRMAN: The question is on the amendment offered by the gentleman from New York [Mr. Marcantonio].

The question was taken; and on a division (demanded by Mr. Marcantonio) there were—ayes 62, noes 31.

MR. [BRENT] SPENCE [of Kentucky]: Mr. Chairman, I demand tellers.

Tellers were ordered; and the Chairman appointed Mr. Buchanan and Mr. Marcantonio to act as tellers.

The Committee again divided; and the tellers reported there were—ayes 77, noes 57.

So the amendment was agreed to.

MR. SPENCE: Mr. Chairman, I move that the Committee do now rise.

MR. [JESSE P.] WOLCOTT [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. WOLCOTT: If the Committee rises at the present time will it report the bill back to the House with amendments, or will it report that it has come to no conclusion thereon? What is the situation?

THE CHAIRMAN: This is simply a motion that the Committee rise. There

are several amendments yet to be offered.

The question was taken; and the Chairman announced that the noes appeared to have it.

MR. SPENCE: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Patman and Mr. Wolcott.

The Committee again divided, and the tellers reported that there were—ayes 86, noes 83.

So the motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. Priest, having assumed the chair, Mr. Mansfield, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H. R. 6070) to amend the National Housing Act, as amended, and for other purposes, had come to no resolution thereon.

### ***Rising of Committee to Report Objectionable Words***

**§ 21.5 When words are taken down in the Committee of the Whole, the Committee must immediately rise and the Chairman reports the questionable words to the House.**

On Mar. 9, 1936,<sup>(20)</sup> during consideration of H.R. 11563, the Dis-

20. 80 CONG. REC. 3465, 74th Cong. 2d Sess. See 79 CONG. REC. 1808, 74th Cong. 1st Sess., Feb. 7, 1935, for another illustration of this procedure.

strict of (Columbia rent commission bill, the Committee of the Whole rose immediately after a demand was made to take words down.

MR. [HENRY] ELLENBOGEN [of Pennsylvania]: Mr. Chairman, a point of order. I ask that the gentleman's language be taken down. It is a violation of the rules of the House, and in the meantime I demand that the gentleman take his seat.

THE CHAIRMAN: <sup>(1)</sup> The Clerk will report the words objected to.

The Clerk read as follows:

MR. BLANTON: Here is the answer, if the gentleman can understand English.

The Committee rose and the Speaker pro tempore (Mr. O'Connor) having assumed the chair, Mr. Umstead, Chairman of the Committee of the Whole House on the state of the Union, reported that the Committee having had under consideration the bill (H.R. 11563), certain words used in debate were objected to and on request were taken down and read at the Clerk's desk and he reported the same to the House herewith.

THE SPEAKER PRO TEMPORE: <sup>(2)</sup> The Clerk will report the words objected to.

The Clerk read as follows:

MR. BLANTON: Here is the answer, if the gentleman can understand English.

THE SPEAKER PRO TEMPORE: The Chair is ready to rule. The Chair sees nothing objectionable in the words used.

1. William B. Umstead (N.C.).

2. John J. O'Connor (N.Y.).

The Committee will resume its session.

### ***Rising on Ceremonial Occasions***

#### **§ 21.6 The Speaker was instrumental in causing the Committee of the Whole to rise because of the death of a Senator, formerly a Member of the House.**

On Mar. 8, 1951,<sup>(3)</sup> Speaker Sam Rayburn, of Texas, was instrumental in causing the Committee of the Whole to rise on the death of Senator Virgil M. Chapman, formerly a Member of the House. After the Committee of the Whole rose, on motion, the Speaker addressed the House from the chair.

THE SPEAKER: The Chair desires to inform the House that he was instrumental in seeing that the Committee rose at this time because of the death of a great citizen, a great Senator, and a former great Member of the House of Representatives. The Chair would much prefer that gentlemen who have special orders for this afternoon postpone their special orders. The Chair knows that the gentleman from Texas [Mr. Patman], who has a special order for today, does not want to use his time.

#### **§ 21.7 During consideration of an appropriations bill, the**

3. 97 CONG. REC. 2153, 82d Cong. 1st Sess.

**Committee of the Whole rose to permit the House to commemorate the 150th anniversary of the organization of the Supreme Court.**

On Feb. 1, 1940,<sup>(4)</sup> during consideration of H.R. 8202, the agriculture appropriation bill, the Committee of the Whole rose to permit the House to hold exercises commemorating the 150th anniversary of the organization of the Supreme Court.

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, I move that the Committee do now rise, for the purpose of affording the House of Representatives an opportunity to hold exercises in commemoration of the one hundred and fiftieth anniversary of the organization of the Supreme Court of the United States; and pending that motion, I may say, Mr. Chairman, that at the conclusion of the exercises, at approximately 3 o'clock, the Committee will resume its session and continue consideration of the bill.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Cole of Maryland, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill H.R. 8202, the agricultural appropriation bill, 1941, had come to no resolution thereon.

THE SPEAKER:<sup>(5)</sup> Members of the House of Representatives, as you are

doubtless aware, this is the one hundred and fiftieth anniversary of the first convening of the Supreme Court of the United States.

## § 22. Motions to Rise

It is in order for any Member of the Committee of the Whole to move to rise and the Chairman is constrained to recognize for that purpose,<sup>(6)</sup> unless another Member controls the floor.<sup>(7)</sup> However, neither the motion to rise<sup>(8)</sup> nor the motion to rise and report is debatable.<sup>(9)</sup>

Although a motion that the Committee of the Whole rise and resume its sitting on a day certain is not in order in the Committee,<sup>(10)</sup> a motion to rise and report with the recommendation that consideration be postponed to a day certain is in order and preferential where the Committee is operating under the general rules of the House,<sup>(11)</sup> but not where the Committee is operating under a special rule specifying the conditions under which the bill is to be considered.<sup>(12)</sup>

6. 8 Cannon's Precedents § 2369.

7. See § 24.2, *infra*.

8. § 22.4, *infra*.

9. 4 Hinds' Precedents § 4766.

10. § 22.2, *infra*.

11. 8 Cannon's Precedents § 2372.

12. For an example of the effect of a special rule on the availability of certain

4. 86 CONG. REC. 935, 936, 76th Cong. 3d Sess.

5. William B. Bankhead (Ala.).

The simple motion to recommit is not admissible in the Committee of the Whole, but a motion to rise and report with the recommendation that the bill be re-committed is in order<sup>(13)</sup> unless that motion is precluded by the terms of a special rule.<sup>(14)</sup>

### ***Form of Motion***

#### **§ 22.1 The Committee of the Whole may rise pursuant to a motion from the floor in which a Member states “Mr. Chairman, I move that the Committee do now rise.”**

On Apr. 14, 1970,<sup>(15)</sup> the Committee of the Whole rose pursuant to a motion from the floor to enable the Speaker to sign and lay before the House an enrolled bill to increase the pay of federal employees. After the Speaker announced his signature the House agreed to a motion to resolve into the Committee. The proceedings were as follows:

MR. [DANIEL J.] FLOOD [of Pennsylvania]: I take this time to advise the Chair and the Committee that the

motions to rise with recommendations, see § 23.12, *infra*.

13. 8 Cannon's Precedents § 2329.

14. See § 23.12, *infra*.

15. 116 CONG. REC. 11654, 91st Cong. 2d Sess.

postal pay raise bill is about to be presented. I understand that action will take place immediately as the Speaker has just advised us.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Holifield, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 16916, making appropriations for the Office of Education for the fiscal year ending June 30, 1971, and for other purposes, had come to no resolution thereon.

The Speaker announced his signature to enrolled bill of the Senate of the following title:

S. 3690. An act to increase the pay of Federal employees.

MR. FLOOD: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 16916) making appropriations for the Office of Education for the fiscal year ending June 30, 1971, and for other purposes.

THE SPEAKER:<sup>(16)</sup> The question is on the motion offered by the gentleman from Pennsylvania.

The motion was agreed to.

Accordingly the House resolved into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 16916, with Mr. Holifield in the chair.

### ***Motion to Rise and Resume on Day Certain***

#### **§ 22.2 A motion that the Committee rise and resume its**

16. John W. McCormack (Mass.).

**sitting on a day certain is not in order in the Committee of the Whole.**

On May 25, 1967,<sup>(17)</sup> during consideration of S. 1432, amending the Universal Military Training and Service Act, Chairman Robert L. F. Sikes, of Florida, ruled out a motion that the Committee rise and resume its sitting on a day certain.

MR. [WILLIAM H.] BATES [of Massachusetts]: Mr. Chairman, I yield 5 minutes to the gentleman from Maryland [Mr. Rogers C. B. Morton].

MR. MORTON: Mr. Chairman, I open my remarks with a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. MORTON: Would it be in order to move that the Committee rise and sit again on Wednesday, the 31st of May?

THE CHAIRMAN: At this time that motion would not be order.

***Requirement That Motion Be Written***

**§ 22.3 All motions must be in writing if the demand is made, and this applies to a motion that the Committee of the Whole do now rise.**

On June 13, 1947,<sup>(18)</sup> during consideration of H.R. 3342, the

17. 113 CONG. REC. 14121, 90th Cong. 1st Sess.

18. 93 CONG. REC. 6998, 80th Cong. 1st Sess. See 96 CONG. REC. 1693, 81st

cultural relations program of the State Department, Chairman Thomas A. Jenkins, of Ohio, sustained a point of order against a motion, made orally, to rise.

MR. [DANIEL A.] REED of New York: Mr. Chairman, I move that the Committee do now rise.

MR. [KARL E.] MUNDT [of South Dakota]: Mr. Chairman, I make the point of order that the motion has not been submitted in writing.

MR. REED of New York: Mr. Chairman, a preferential motion of this character does not have to be submitted in writing.

THE CHAIRMAN: The point of order is sustained.

***Debatability***

**§ 22.4 The motion that the Committee rise is not debatable.**

On Apr. 8, 1964,<sup>(19)</sup> during consideration of H.R. 10222, the Food Stamp Act of 1964, Chairman Phillip M. Landrum, of Georgia, indicated that the motion that the Committee of the Whole rise is not debatable.

THE CHAIRMAN: The Chair recognizes the gentleman from Iowa [Mr. Jensen].

Cong. 2d Sess., Feb. 8, 1950, for another illustration of this principle.

19. 110 CONG. REC. 7298, 88th Cong. 2d Sess. See 94 CONG. REC. 8521, 80th Cong. 2d Sess., June 16, 1948; 89 CONG. REC. 1167, 78th Cong. 1st Sess., Feb. 19, 1943; and 81 CONG. REC. 7686-97, 75th Cong. 1st Sess., July 27, 1937, for other examples of this principle.

MR. [BEN F.] JENSEN: Mr. Chairman, I move that the Committee do now rise out of further respect for one of the greatest Americans, Gen. Douglas MacArthur.

THE CHAIRMAN: The question is on the motion offered by the gentleman from Iowa [Mr. Jensen].

MR. JENSEN: Mr. Chairman, I demand tellers. It is disgraceful to have this sort of thing going on while General MacArthur is lying here in the Capitol.

THE CHAIRMAN: The Chair will inform the gentleman that a vote on his motion is being taken. He is not recognized to make a speech.

### ***Control by Floor Manager***

#### **§ 22.5 It is within the discretion of the Member handling a bill before the Committee of the Whole to move that the Committee rise.**

On June 16, 1948,<sup>(20)</sup> during consideration of H.R. 6401, the Selective Service Act of 1948, Chairman Francis H. Case, of South Dakota, indicated the Member handling a bill in the Committee of the Whole always has the discretion to move that the Committee rise.

MR. [WALTER G.] ANDREWS of New York: Mr. Chairman, in view of the fact that two or three Members who have time are not here, I move that the Committee do now rise.

20. 94 CONG. REC. 8621, 80th Cong. 2d Sess.

THE CHAIRMAN: The question is on the motion offered by the gentleman from New York [Mr. Andrews].

MR. [GEORGE A.] SMATHERS [of Florida]: Mr. Chairman, I would like to be heard on that.

THE CHAIRMAN: That is not a debatable motion. It is always within the discretion of the gentleman handling the bill to move that the Committee rise.

### ***Establishing Time to Rise***

#### **§ 22.6 Prior to resolving into the Committee of the Whole, the House by unanimous consent may limit general debate to a time certain and provide that the Committee will rise at the conclusion of general debate.**

On Apr. 9, 1963,<sup>(21)</sup> during consideration of H.R. 5517, making supplemental appropriations for the 1963 fiscal year, the House by unanimous consent limited general debate and provided for a time for the Committee to rise.

MR. [ALBERT] THOMAS [of Texas]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 5517, making supplemental appropriations for the fiscal year ending June 30, 1963, and for other purposes; and, pending that motion, Mr. Speaker, I

21. 109 CONG. REC. 6044, 88th Cong. 1st Sess.

ask unanimous consent that general debate on the bill be concluded not later than 5 p.m. today, one-half of the time to be controlled by the gentleman from Ohio [Mr. Bow], and one-half by myself, and that at the conclusion of general debate today the Committee will rise. . . .

THE SPEAKER:<sup>(22)</sup> Is there objection to the request of the gentleman from Texas?

There was no objection.

### ***Quorum Requirement***

#### **§ 22.7 In Committee of the Whole a quorum is not required on a motion to rise.**

On June 4, 1948,<sup>(23)</sup> during consideration of H.R. 6801, the foreign aid appropriations bill, Chairman W. Sterling Cole, of Maryland, ruled on the necessity for a quorum at the time.

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, I make the point of order that a quorum is not present.

22. John W. McCormack (Mass.).

23. 94 CONG. REC. 7178, 80th Cong. 2d Sess. See also 118 CONG. REC. 19353, 92d Cong. 2d Sess., May 31, 1972.

*Parliamentarian's Note:* Rule XV clause 6(b), *House Rules and Manual* §774(c) (1979) now provides that a "quorum shall not be required in the Committee of the Whole for agreement to a motion that the Committee rise." The subject of quorums is discussed more fully in Ch. 20, *infra*.

THE CHAIRMAN: The Chair will count.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I move that the Committee rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from New York.

MR. TABER: Mr. Chairman, on that I demand tellers.

MR. COOLEY: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. COOLEY: Is the motion of the gentleman from New York in order pending the determination as regards the presence of a quorum?

THE CHAIRMAN: The gentleman's motion is in order. A quorum is not necessary upon a motion that the Committee rise.

### ***Voting on the Motion***

#### **§ 22.8 The Committee of the Whole on a division or teller vote may reject a motion made by the Member in charge of a bill that the Committee rise.**

On June 16, 1948,<sup>(1)</sup> during consideration of H.R. 6401, the Selective Service Act of 1948, the Committee of the Whole rejected a motion made by the Member in charge of the bill that the Committee rise.

MR. [WALTER G.] ANDREWS [of New York]: Mr. Chairman, in view of the

1. 94 CONG. REC. 8521, 80th Cong. 2d Sess.

fact that two or three Members who have time are not here, I move that the Committee do now rise. . . .

THE CHAIRMAN: <sup>(2)</sup> The question is on the motion offered by the gentleman from New York [Mr. Andrews] that the Committee do now rise.

The question was taken; and on a division (demanded by Mr. Andrews of New York) there were—ayes 79, noes 94.

MR. ANDREWS of New York: Mr. Chairman, I ask for tellers.

Tellers were ordered, and The Chairman appointed as tellers Mr. Andrews of New York and Mr. Smathers.

The Committee again divided; and the tellers reported there were—ayes 76, noes 139.

So the motion was rejected.

### ***Withdrawal***

#### **§ 22.9 A privileged motion that the Committee of the Whole rise may be withdrawn by unanimous consent.**

On Oct. 28 1971,<sup>(3)</sup> during consideration of H.R. 7248 to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education, the motion that the Committee of the Whole rise was withdrawn by unanimous consent.

MR. [THOMAS M.] PELLY [of Washington]: Mr. Chairman, I move that the Committee do now rise.

2. Francis H. Case (S.D.).

3. 117 CONG. REC. 38071, 92d Cong. 1st Sess.

THE CHAIRMAN: <sup>(4)</sup> The gentleman is seeking to propound a parliamentary inquiry?

MR. PELLY: I am not, Mr. Chairman. I have a privileged motion. I move that the Committee do now rise. . . .

THE CHAIRMAN: Does the gentleman from Washington insist upon his motion?

MR. PELLY: Mr. Chairman, I withdraw my motion.

THE CHAIRMAN: Without objection, the motion is withdrawn.

There was no objection.

### **§ 23.—When in Order**

The motion to rise is preferential<sup>(5)</sup> and is in order pending a count of a quorum<sup>(6)</sup> or pending a decision on a point of order.<sup>(7)</sup> It is also in order after tellers have been ordered and appointed, though not after the count has begun.<sup>(8)</sup> However, the motion will not lie during a division<sup>(9)</sup> or while another Member has the floor in debate.<sup>(10)</sup> A decision by

4. James C. Wright, Jr. (Tex.).

5. § 23.1, *infra*.

6. § 23.5, *infra*.

7. §§ 23.7, 23.8, *infra*.

8. § 23.9, *infra*; compare 5 Hinds' Precedents § 6001 and 4 Hinds' Precedents § 4773, which indicate that, tellers having been ordered and appointed, the motion to rise is not in order pending the taking of the vote.

9. § 23.11, *infra*.

10. § 23.6, *infra*; 4 Hinds' Precedents § 4769; and 8 Cannon's Precedents § 2325.

The Chairman that a motion to rise was in order after a Member had been recognized for debate but before he had begun to speak was overruled by the Committee.<sup>(11)</sup>

The point of order that the motion is dilatory may be raised in the Committee of the Whole.<sup>(12)</sup>

When provision is made by special order for the automatic rising of the Committee of the Whole at a designated time, a motion is required to rise before that time, and is in order.<sup>(13)</sup> However, when the hour previously fixed for adjournment of the House arrives while the Committee of the Whole is still in session, The Chairman may direct the Committee to rise and make his report as though the Committee had risen on motion in the regular way.<sup>(14)</sup> And when the House has limited general debate to a time certain and provided for the Committee of the Whole to rise at the conclusion of that time, the Committee then rises without a motion or vote.<sup>(15)</sup>

The motion to rise and report has precedence over the motion to take up another bill.<sup>(16)</sup> The mo-

tion to amend has precedence over the motion to rise and report a bill with recommendations<sup>(17)</sup> but not over the simple motion to rise.<sup>(18)</sup>

The motion to rise and report with the recommendation that the bill be recommitted takes precedence over the motion to rise and report with the recommendation that the bill pass,<sup>(19)</sup> when the Committee of the Whole is operating under the general rules of the House.

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### ***Privileged Nature***

#### **§ 23.1 The motion that the Committee of the Whole rise is privileged.**

On July 23, 1970,<sup>(20)</sup> during consideration of H.R. 18515, providing appropriations for the Departments of Labor and Health, Education, and Welfare for fiscal year 1971, Chairman Chet Holifield, of California, referred to the privileged nature of the motion that the Committee of the Whole rise.

MR. [SIDNEY R.] YATES [of Illinois]:  
Mr. Chairman, a parliamentary inquiry.

11. 8 Cannon's Precedents § 2370.

12. 8 Cannon's Precedents § 2800.

13. 7 Cannon's Precedents § 793.

14. 4 Hinds' Precedents § 4785.

15. See § 21.3, *supra*.

16. 4 Hinds' Precedents § 4766.

17. § 23.14, *infra*.

18. 4 Hinds' Precedents § 4770.

19. 8 Cannon's Precedents § 2329.

20. 116 CONG. REC. 25628, 91st Cong. 2d Sess.

Is it in order for me to move that the Committee do now rise?

THE CHAIRMAN: It is a privileged motion.

MR. YATES: Mr. Chairman, I move that the Committee do now rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from Illinois.

The question was taken; and The Chairman announced that the noes appeared to have it.

MR. YATES: Mr. Chairman, I demand tellers.

Tellers were ordered, and The Chairman appointed as tellers Mr. Yates and Mr. Flood.

The Committee divided, and the tellers reported that there were—ayes 8, noes 93.

So the motion was rejected.

*Parliamentarian's Note:* While a motion that the Committee of the Whole rise is privileged, it cannot be made while another Member has the floor, but can be offered any time when the proponent thereof can secure the floor in his own right.

**§ 23.2 A motion that the Committee of the Whole rise is of high privilege, and may be offered by a Member who holds the floor by virtue of having offered an amendment.**

On Nov. 15, 1967,<sup>(1)</sup> during consideration of S. 2388, Economic

1. 113 CONG. REC. 32694, 90th Cong. 1st Sess.

Opportunity Act Amendments of 1967, Chairman John J. Rooney, of New York, made reference to the right of a Member who holds the floor by virtue of having offered an amendment to offer the privileged motion that the Committee rise.

MR. [PAUL C.] JONES of Missouri: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jones of Missouri: On page 219 strike out all of line 17 through line 24.

MR. JONES of Missouri: Mr. Chairman, I make a parliamentary inquiry at this time.

THE CHAIRMAN: The gentleman will state it.

MR. JONES of Missouri: Would I be in order to make a motion that the Committee do now rise so that if we could get back into the House I could make a motion to adjourn?

THE CHAIRMAN: A motion that the Committee do now rise is a privileged motion.

MR. JONES of Missouri: Mr. Chairman, I move that the Committee do now rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from Missouri.

The motion was rejected.

**§ 23.3 A motion that the Committee rise is privileged during consideration of a bill under the five-minute rule and takes precedence over pending amendments.**

On Apr. 30, 1970,<sup>(2)</sup> during consideration of H.R. 17123, the military procurement authorization for fiscal year 1971, Chairman Daniel D. Rostenkowski, of Illinois, indicated that the motion that the Committee rise was privileged and would take precedence over certain pending amendments.

*Parliamentarian's Note:* During consideration of this measure under the five-minute rule, amendments were offered with respect to use of funds to support ground combat troops in Cambodia, Laos, and Thailand. When it became apparent during lengthy debate on these amendments that many Members wished to defer action on the amendment until the President had concluded a policy statement on Southeast Asia which had been scheduled for delivery on nationwide television that evening, several Members approached the manager of the bill, L. Mendel Rivers, of South Carolina, Chairman of the Committee on Armed Services, to urge the Committee's rising without completing action on the bill. When the Chairman declined to make the motion, Mr. Edward P. Boland, of Massachusetts, who was not on the Committee on Armed Services, sought recognition to make the motion.

MR. BOLAND: Mr. Chairman, a parliamentary inquiry.

2. 116 CONG. REC. 13784, 91st Cong. 2d Sess.

THE CHAIRMAN: The gentleman will state it.

MR. BOLAND: Mr. Chairman, is it in order to move that the Committee do now rise?

THE CHAIRMAN: Yes; it is in order.

MR. BOLAND: Mr. Chairman, I move that the Committee do now rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from Massachusetts.

MR. RIVERS: Mr. Chairman, on that I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Boland and Mr. Rivers.

The Committee divided and the tellers reported that there were—ayes 131, noes 100.

So the motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Rostenkowski, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 17123) to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes, had come to no resolution thereon.

**§ 23.4 The motion that the Committee of the Whole rise is privileged and in order notwithstanding the announcement of an “informal**

**agreement” among floor managers of a bill with respect to concluding consideration of the bill on that day at a different time.**

On Oct. 28, 1971,<sup>(3)</sup> during consideration of H.R. 7248, to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education, Chairman James C. Wright, Jr., of Texas, refused to entertain a parliamentary inquiry as to whether the motion that the Committee of the Whole rise would be in order notwithstanding an informal agreement to conclude consideration of a bill on that day at a different time.

MRS. [EDITH S.] GREEN of Oregon (during the reading): Mr. Chairman, I ask unanimous consent, that title VIII be considered as read, printed in the Record, and open to amendment at any point.

THE CHAIRMAN: Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

MRS. GREEN of Oregon: Mr. Chairman, I move that the Committee do now rise. . . .

MR. [ROMAN C.] PUCINSKI [of Illinois]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. PUCINSKI: It was my impression that earlier today the Chair stated the

agreement we had was that we were going to go through title VIII or until 6 o'clock, whichever came later. I was under the impression that that was the agreement, so a number of members of the Veterans' Affairs Committee have remained since we have an amendment to title VIII. I just wonder what happened to that agreement.

THE CHAIRMAN: The Chair will state to the gentleman that the gentlewoman from Oregon has made a motion that the Committee do now rise. That is a privileged motion, that the Chair must put the motion.

MR. PUCINSKI: Mr. Chairman, a further parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. PUCINSKI: It is correct, then, to assume that the motion does somewhat contravene and contradict the agreement that was made?

THE CHAIRMAN: The Chair cannot entertain that as a parliamentary inquiry.

The question is on the motion that the Committee do now rise.

The motion was agreed to.

### ***Pending Count of Quorum***

#### **§ 23.5 Pending the (Chair's count of a quorum, a motion that the Committee of the Whole rise is in order; that motion does not require a quorum for its adoption.**

On June 4, 1948,<sup>(4)</sup> during consideration of H.R. 6801, the for-

3. 117 CONG. REC. 38078, 92d Cong. 1st Sess.

4. 94 CONG. REC. 7178, 80th Cong. 2d Sess.

eign aid appropriations bill, Chairman W. Sterling Cole, of New York, stated that the motion to rise is in order pending the Chair's count of a quorum.

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I move that the Committee rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from New York.

MR. TABER: Mr. Chairman, on that I demand tellers.

MR. COOLEY: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. COOLEY: Is the motion of the gentleman from New York in order pending the determination as regards the presence of a quorum?

THE CHAIRMAN: The gentleman's motion is in order. A quorum is not necessary upon a motion that the Committee rise.

Tellers were ordered, and the Chairman appointed as tellers Mr. Taber and Mr. Cannon.

The Committee divided; and the tellers reported that there were-aye 1, noes 64.

So the motion was rejected.

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*Parliamentarian's Note:* This principle is now expressly provided under Rule XV clause 6(b), *House Rules and Manual* § 774(c) (1979).

### ***While Another Member Has Floor***

#### **§ 23.6 In the Committee of the Whole a Member may not move to rise while another has the floor.**

On Mar. 12, 1964,<sup>(5)</sup> during consideration of H.R. 8986, the pay bill for federal employees, Chairman Chet Holifield, of California, indicated that a Member may not move, while another Member has the floor, that the Committee of the Whole rise, unless time is yielded to him for that purpose.

MR. [ROBERT J.] CORBETT [of Pennsylvania]: I was going to try to explain the amendment a little bit, but the gentleman is using up all my time. Go ahead.

THE CHAIRMAN: Does the gentleman yield for a parliamentary inquiry?

MR. CORBETT: I yield to the gentleman.

THE CHAIRMAN: The gentleman is recognized.

MR. [AUGUST E.] JOHANSEN [of Michigan]: Would a motion that the Committee rise be in order at this time?

THE CHAIRMAN: If the gentleman from Pennsylvania yields for that purpose.

MR. CORBETT: Mr. Chairman, I cannot yield further. I probably only have 3 minutes left.

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5. 110 CONG. REC. 5101, 88th Cong. 2d Sess.

***Pending Decision on Point of Order***

**§ 23.7 In the Committee of the Whole a motion that the Committee rise may be entertained pending a decision of the Chair on a point of order.**

On June 4, 1957,<sup>(6)</sup> during consideration of H.R. 6974, extending the Agricultural Trade Development and Assistance Act of 1954, Chairman Brooks Hays, of Arkansas, stated that a motion that the Committee of the Whole rise was made pending the Chair's decision on a point of order.<sup>(7)</sup>

**§ 23.8 A point of order having been raised in the Committee of the Whole against a bill reported by a committee without jurisdiction to propose an appropriation under Rule XXI, the Committee rose pending decision by the Chair on the point of order.**

On June 4, 1957,<sup>(8)</sup> during consideration of H.R. 6974, extending the Agricultural Trade Develop-

ment and Assistance Act of 1954, the Committee of the Whole rose pending a decision by the Chairman on a point of order that the bill which proposed an appropriation had been reported by a committee contrary to Rule XXI clause 4.<sup>(9)</sup>

MR. [JOHN J.] RODNEY [of New York]: Mr. Chairman, I rise to a point of order against the entire bill, H.R. 6974, on the ground that it is a bill from a committee not having authority to report an appropriation. . . .

MR. [HAROLD D.] COOLEY [of North Carolina]: . . . I am a little bit apprehensive that the point of order may be sustained, if the Chair is called upon to rule on it. But, I think it would be very unfortunate for us to delay final action on the bill, and in the circumstances we have no other alternative other than to move that the Committee do now rise, and so, Mr. Chairman, I make that motion.

THE CHAIRMAN:<sup>(10)</sup> The Chair is prepared to rule on the point of order, but the motion offered by the gentleman from North Carolina that the Committee do now rise is in order, and the Chair will put the question.

The question is on the motion offered by the gentleman from North Carolina.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Hays of Arkansas, Chairman of the Committee of the Whole House on

6. 103 CONG. REC. 8298, 8318, 8319, 85th Cong. 1st Sess. See 105 CONG. REC. 9027, 9028, 86th Cong. 1st Sess., May 25, 1959, for another illustration of this principle.

7. See §23.8, *infra*, for the proceedings of this date.

8. 103 CONG. REC. 8298, 8318, 8319, 85th Cong. 1st Sess.

9. See Rule XXI clause 5, *House Rules and Manual* §846 (1979).

10. Brooks Hays (Ark.).

the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6974) to extend the Agricultural Trade Development and Assistance Act of 1954, and for other purposes, had come to no resolution thereon.

*Parliamentarian's Note:* In this case the language of the bill was in violation of the provisions of then Rule XXI clause 4 (now clause 5). The Member in charge of the bill moved that the Committee rise to permit application to the Committee on Rules for a resolution waiving points of order against the bill. The rule granted was House Resolution 274.

### ***Before Tellers Begin Count***

#### **§ 23.9 A vote by tellers having been ordered and appointed in the Committee of the Whole, a motion that the committee rise is in order if the tellers have not taken their places and the count has not begun.**

On Mar. 12, 1942,<sup>(11)</sup> during consideration of H.R. 6709, the agriculture appropriations bill for fiscal year 1943, Chairman Robert Ramspeck, of Georgia, indicated that a motion that the Committee

of the Whole rise is in order after a vote by tellers has been ordered and tellers have been appointed if the tellers have not taken their places and begun the count.

THE CHAIRMAN: The gentleman from South Dakota [Mr. Case] offers a substitute for the Dirksen amendment.

The Clerk will report the substitute. The Clerk read as follows:

Amendment offered by Mr. Case of South Dakota as a substitute for the amendment offered by Mr. Dirksen: Page 80, line 21, strike out "\$45,000,000" and insert "\$25,000,000."

THE CHAIRMAN: The question is on the substitute offered by the gentleman from South Dakota.

The question was taken; and the Chair being in doubt the Committee divided, and there were—ayes 84, noes 88.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. Case of South Dakota and Mr. Tarver.

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Chairman, I move that the Committee do now rise.

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. MARTIN of Massachusetts: The gentleman cannot interrupt a vote.

THE CHAIRMAN: The vote has not started.

MR. MARTIN of Massachusetts: We had already started to vote on the substitute and the Chair had announced the vote as 84 to 88.

11. 88 CONG. REC. 2374, 77th Cong. 2d Sess. See 88 CONG. REC. 5169, 77th Cong. 2d Sess., June 11, 1942, for another illustration of this principle.

THE CHAIRMAN: The tellers had not taken their places.

The point of order is overruled.

MR. MARTIN of Massachusetts: Mr. Chairman, we had started the vote when the first voice vote was taken.

THE CHAIRMAN: The point of order is overruled.

The gentleman from Georgia moves that the Committee do now rise.

The question is on the motion.

### *During Time for Debate*

#### **§ 23.10 The motion to rise is in order after agreement to a motion to limit debate on an amendment.**

On Feb. 8, 1950,<sup>(12)</sup> during consideration of H.R. 2945, to adjust postal rates, Chairman Chet Holifield, of California, indicated that a motion that the Committee of the Whole rise was in order after agreement to a time limit on debate on an amendment.

MR. [THOMAS J.] MURRAY of Tennessee: Mr. Chairman, I move that all debate on the committee substitute and all amendments thereto close in 20 minutes.

THE CHAIRMAN: The question is on the motion,

The question was taken; and on a division (demanded by Mr. Sutton) there were—ayes 99, noes 76.

MR. [ROBERT J.] CORBETT [of Pennsylvania]: Mr. Chairman, I demand tellers.

12. 96 CONG. REC. 1690, 81st Cong. 2d Sess.

Tellers were ordered, and the Chairman appointed as tellers Mr. Murray of Tennessee and Mr. Corbett.

The Committee again divided; and the tellers reported there were—ayes 133, noes 72.

So the motion was agreed to.

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. FULTON: Is a motion that the Committee do now rise in order at this time?

THE CHAIRMAN: Such a motion would be in order.

MR. FULTON: Mr. Chairman, I move that the Committee do now rise.

The question was taken; and on a division (demanded by Mr. Fulton) there were—ayes 76, noes 125.

MR. FULTON: Mr. Chairman. I ask for tellers.

Tellers were refused.

So the motion was rejected.

### *During Division Vote*

#### **§ 23.11 The motion that the Committee of the Whole rise is not preferential while the Committee is dividing on a question.**

On Dec. 8, 1944,<sup>(13)</sup> during a division vote on a motion to close debate on H.R. 5587, the first supplemental appropriations bill, 1944, Chairman Herbert C.

13. 90 CONG. REC. 9066, 78th Cong. 2d Sess.

Bonner, of North Carolina, refused to recognize a Member for a motion that the Committee of the Whole rise.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I move that all debate on this amendment do now close.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I trust the gentleman will not press that motion.

THE CHAIRMAN: The question is on the motion offered by the gentleman from New York [Mr. Taber].

The question was taken, and the Chair announced that the ayes had it.

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, I ask for a division.

THE CHAIRMAN: Those in favor of the motion will rise and be counted.

MR. RANKIN: Mr. Chairman, I move that the Committee do now rise.

THE CHAIRMAN: The Chair calls the attention of the gentleman to the fact that we are in the middle of a vote.

MR. RANKIN: Mr. Chairman, I am offering a preferential motion. I move that the Committee do now rise.

THE CHAIRMAN: The Chair will ask the gentleman to reconsider, because we are in the midst of taking a vote on a motion at this time.

MR. RANKIN: Mr. Chairman, I am offering a preferential motion now.

THE CHAIRMAN: The Chair cannot recognize the gentleman at this time for that purpose.

The question is on the motion offered by the gentleman from New York [Mr. Taber].

### ***During Consideration of Bill Under Special Rule***

#### **§ 23.12 A motion that the Committee of the Whole rise and**

**report a bill back to the House with the recommendation that it be recommitted to the committee from which reported is not in order if the bill is being considered under a special rule which provides that, after consideration and upon the automatic rising of the Committee of the Whole, the previous question shall be considered as ordered on the bill and amendments thereto to final passage.**

On Aug. 10, 1950,<sup>(14)</sup> the Committee of the Whole was considering H.R. 9176, the Defense Production Act of 1950, under a special rule which provided as follows:<sup>(15)</sup>

*Resolved*, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 9176) to establish a system of priorities and allocations for materials and facilities . . . and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and continue not to exceed 1 day, to be equally divided and controlled by the

14. 96 CONG. REC. 12219, 81st Cong. 2d Sess.

15. See H. Res. 740, 96 CONG. REC. 11606, 81st Cong. 2d Sess., Aug. 1, 1950.

chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the 5-minute rule. It shall be in order to consider without the intervention of any point of order the substitute committee amendment recommended by the Committee on Banking and Currency now in the bill, and such substitute for the purpose of amendment shall be considered under the 5-minute rule as an original bill. At the conclusion of such consideration the committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

During the proceedings, Mr. John E. Rankin, of Mississippi, made a motion that the Committee rise and report the bill back to the House with the recommendation that it be recommitted. The Chairman, Howard W. Smith, of Virginia, in ruling on a point of order against the motion, indicated that the motion was precluded under the terms of the special rule. The motion and ruling were as follows:

MR. RANKIN: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Rankin moves that the Committee do now rise and report the bill back to the House with the recommendation that it be recommitted to the Committee on Banking and Currency for further hearings and study.

MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. PATMAN: Mr. Chairman, I make the point of order that this being a straight motion to recommit, without instructions, it is not permissible under the rule under which we are considering the bill in Committee.

THE CHAIRMAN: The Chair is ready to rule. That motion is not in order in Committee of the Whole, and the Chair sustains the point of order.

MR. RANKIN: Mr. Chairman, it is in order to make a motion that the Committee do now rise and report the bill back to the House with the recommendation that it be recommitted to the Committee on Banking and Currency for further study and hearing.

THE CHAIRMAN: In the consideration of this bill the Committee of the Whole is operating under a special rule which lays down the conditions under which the bill is to be considered. The motion of the gentleman from Mississippi is not in order at this time.

*Parliamentarian's Note:* An earlier precedent (see 8 Cannon's Precedents §2375) indicated a contrary view. The Chair in that instance held that a special rule, whose provisions were not materially different from those of House Resolution 740, above, did not de-

prive the Committee of the Whole of the right to report with a recommendation to recommit the bill under consideration at the end of reading for amendment. The Chair on that occasion, however, incorrectly overruled a point of order made by Mr. Clarence Cannon, of Missouri, who argued that at the conclusion of the amendment process the Committee of the Whole rises automatically under the terms of such a special rule and reports the bill to the House with adopted amendments, and that a motion to that end is not necessary. The modern practice, as shown in the ruling of Chairman Smith, above, is to disallow motions in Committee of the Whole that, if adopted, would effectively contravene the terms of the special rule that order the previous question on the bill and amendments thereto, to final passage at the conclusion of the amendment process under the five-minute rule, and that protect the motion to recommit, as guaranteed by clause 4 Rule XVI, only after amendments are disposed of in the House and pending final passage.

***Precedence Over Motion to Strike Enacting Clause***

**§ 23.13 A motion that the Committee of the Whole do now**

**rise takes precedence over a pending motion to rise and report with the recommendation that the enacting clause be stricken out.**

On May 24, 1967,<sup>(1)</sup> during consideration of H.R. 7819, the Elementary and Secondary Education Act Amendments of 1967, Chairman Charles M. Price, of Illinois, addressed the question whether the motion that the Committee of the Whole rise takes precedence over a pending motion to rise and report with the recommendation that the enacting clause be stricken out.

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Hays moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out. . . .

THE CHAIRMAN: The question is on the preferential motion offered by the gentleman from Ohio [Mr. Hays].

MR. [CARL D.] PERKINS [of Kentucky]: Mr. Chairman, I move that the Committee do now rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from Kentucky [Mr. Perkins].

1. 113 CONG. REC. 13876, 13877, 90th Cong. 1st Sess. See 82 CONG. REC. 1600, 75th Cong. 2d Sess., Dec. 15, 1937, for another illustration of this principle.

MR. [PAUL C.] JONES of Missouri: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. JONES of Missouri: Does not a preferential motion require a vote before the Chair can accept another motion?

THE CHAIRMAN: No. A motion to rise takes precedence over any other motion.

The question is on the motion offered by the gentleman from Kentucky [Mr. Perkins].

MR. [LESLIE C.] ARENDS [of Illinois]: Mr. Chairman, on that I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Perkins and Mr. Goodell.

The Committee divided and the tellers reported that there were—ayes 127, noes 186.

So the motion was rejected.

THE CHAIRMAN: The question is on the preferential motion.

MR. JONES of Missouri: Mr. Chairman I demand tellers.

Tellers were refused.

THE CHAIRMAN: The question is on the preferential motion.

The preferential motion was rejected.

### ***Precedence of Motion to Amend Over Motion to Rise and Report***

**§ 23.14 A motion to amend in the Committee of the Whole takes precedence over a motion to rise and report a bill with recommendations.**

On July 27, 1937,<sup>(2)</sup> during consideration of H.R. 7730, to authorize the President to appoint administrative assistants, Chairman Wright Patman, of Texas, ruled on the precedence of a motion to amend over a motion to rise.

Mr. Robinson of Utah and Mr. Collins rose.

MR. [J. W.] ROBINSON of Utah: Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with the recommendation that the bill do pass.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the motion that it is not in order at this stage of the proceedings.

THE CHAIRMAN: The Chair may state that motions to amend take precedence over a motion that the Committee rise.

## **§ 24.—Offering the Motion**

A Member with the floor generally yields for debate only, since in yielding for a motion or amendment he may lose the floor. The principle that a Member may not, in time yielded for debate, make a motion to rise is based on the consideration that, if amendments or motions were allowed in time yielded for debate, control would shift and the Chair would be deprived of his power of recognition.

2. 81 CONG. REC. 7699, 75th Cong. 1st Sess.

The subject of yielding time in debate and what may be accomplished during yielded time is taken up in greater detail in the chapter on Consideration and Debate, Ch. 29, *infra*.

### ***During Offering of Amendment***

#### **§ 24.1 A Member recognized to offer and debate an amendment may, during his five minutes, move that the Committee rise.**

On Nov. 15, 1967,<sup>(3)</sup> during consideration of S. 2388, the Economic Opportunity Act Amendments of 1967, a Member recognized to offer and debate an amendment was permitted, during his five minutes, to move that the Committee of the Whole rise.

MR. [PAUL C.] JONES of Missouri:

Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jones of Missouri: On page 219 strike out all of line 17 through line 24.

MR. JONES of Missouri: Mr. Chairman, I make a parliamentary inquiry at this time.

THE CHAIRMAN:<sup>(4)</sup> The gentleman will state it.

MR. JONES of Missouri: Would I be in order to make a motion that the

Committee do now rise so that if we could get back into the House I could make a motion to adjourn?

THE CHAIRMAN: A motion that the Committee do now rise is a privileged motion.

MR. JONES of Missouri: Mr. Chairman, I move that the Committee do now rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from Missouri.

The motion was rejected.

### ***During Yielded Time***

#### **§ 24.2 A Member may not in time yielded him for general debate move that the Committee of the Whole rise, nor may a Member who has been yielded time for debate yield to another for that motion. (The Chair was sustained on appeal.)**

On Feb. 22, 1950, Calendar Wednesday,<sup>(5)</sup> during consideration of H.R. 4453, the Federal Fair Employment Practice Act, Chairman Francis E. Walter, of Pennsylvania, ruled that a Member could not in time yielded to him for general debate move that the Committee of the Whole rise. It was also ruled that a Member who had been yielded general debate time could not yield to another for that motion.

MR. [ADAM C.] POWELL [Jr., of New York]: Mr. Chairman, I yield the

3. 113 CONG. REC. 32694, 90th Cong. 1st Sess.

4. John J. Rooney (N.Y.).

5. 96 CONG. REC. 2178, 81st Cong. 2d Sess.

minute that the gentleman from Pennsylvania [Mr. Kelley] yielded back to the gentleman from Virginia [Mr. Smith] for debate.

MR. [HOWARD W.] SMITH of Virginia: Mr. Chairman, we have been in session for a long time. It is now almost 7 o'clock, and it is obvious this bill cannot be seriously considered and concluded during this session of the House. I think most of the Members are very tired. It is about time we were getting away from here. I think a good many of them are ready to get away.

MR. [FRANKLIN D.] ROOSEVELT [Jr., of New York]: Mr. Chairman, will the gentleman yield?

MR. SMITH of Virginia: I yield to the gentleman from New York.

MR. ROOSEVELT: I would like to ask the gentleman if he realizes I am feeling very wide awake and I have no desire to leave until we complete the business of the day.

MR. SMITH of Virginia: The gentleman is a good deal younger than some of us and I congratulate him. I admire him, I like to see him up here jumping around and going on. But I think it is about time we quit. Therefore, Mr. Chairman, I move the Committee do now rise.

MR. POWELL: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. POWELL: Mr. Chairman, I yielded 1 minute to the gentleman from Virginia only for debate.

MR. SMITH of Virginia: Mr. Chairman, I ask recognition on my own to offer a preferential motion.

THE CHAIRMAN: The gentleman from New York yielded to the gentleman

from Virginia for a particular purpose. The motion offered by the gentleman from Virginia is not in order at this time.

MR. SMITH of Virginia: Mr. Chairman, I now move, on my own time, that the Committee do now rise.

THE CHAIRMAN: The gentleman from Virginia has no time. The gentleman from New York and the gentleman from Pennsylvania have control of the time.

MR. POWELL: Mr. Chairman, I now yield 4 minutes to the gentleman from South Carolina [Mr. Sims] for debate.

MR. SMITH of Virginia: Mr. Chairman, will the gentleman yield?

MR. [HUGO S.] SIMS [Jr., of South Carolina]: I yield to the gentleman from Virginia.

MR. SMITH of Virginia: Mr. Chairman, having some time of my own, I now move that the Committee do now rise.

THE CHAIRMAN: The gentleman from South Carolina was yielded 4 minutes time for debate. He in turn yielded to the gentleman from Virginia but he cannot yield to the gentleman from Virginia for the purpose of offering that motion.

An appeal was then taken from the ruling of the Chair and the ruling was sustained on a teller vote.

## **§ 25.—Proceedings Subsequent to Action on Motion**

### ***Reporting to House***

#### **§ 25.1 Where the Committee of the Whole votes merely that**

**the Committee rise, the Chairman reports to the House that the Committee has considered a certain bill and has come to no conclusion thereon; he does not under this procedure report the bill with amendments back to the House.**

On Aug. 24, 1949,<sup>(6)</sup> during consideration of H.R. 6070, to amend the National Housing Act, and after agreement to a particular amendment, Chairman Mike Mansfield, of Montana, ruled on the procedure to be followed in reporting to the House where the Committee of the Whole votes to rise.

MR. [BRENT] SPENCE [of Kentucky]: Mr. Chairman, I move that the Committee do now rise.

MR. [JESSE P.] WOLCOTT [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. WOLCOTT: If the Committee rises at the present time will it report the bill back to the House with amendments, or will it report that it has come to no conclusion thereon? What is the situation?

THE CHAIRMAN: This is simply a motion that the Committee rise. There are several amendments yet to be offered. . . .

The Committee again divided, and the tellers reported that there were—ayes 86, noes 83.

6. 95 CONG. REC. 12186, 81st Cong. 1st Sess.

So the motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. Priest, having assumed the chair, Mr. Mansfield, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6070) to amend the National Housing Act, as amended, and for other purposes, had come to no resolution thereon.

### ***Point of No Quorum***

#### **§ 25.2 A point of order that no quorum is present is not in order after the Committee of the Whole has voted to rise.**

On Mar. 9, 1936,<sup>(7)</sup> during consideration of H.R. 11563, and after the Committee of the Whole had voted to rise, Chairman William B. Umstead, of North Carolina, ruled that a point of order that a quorum was not present was not in order.

MR. [THOMAS L.] BLANTON [of Texas] (interrupting the reading of the bill): Mr. Chairman, I move that the Committee do now rise.

The question was taken.

MR. BLANTON: Mr. Chairman, I ask for a division.

7. 80 CONG. REC. 3459, 74th Cong. 2d Sess.

*Note:* A quorum is not required on an affirmative vote to rise. The subject of quorums and points of no quorum is treated more fully in Ch. 20. *infra*.

The Committee divided; and there were—ayes 40, noes 33,

MR. [HENRY] ELLENBOGEN [of Pennsylvania]: Mr. Chairman, I make the point of order there is not a quorum present.

THE CHAIRMAN: The Chair will count.

MR. [JOHN] TABER [of New York]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. TABER: Mr. Chairman, I make the point of order that a point of no quorum is not in order after the Committee has determined to rise.

THE CHAIRMAN: The point of order is sustained. The vote had already been announced.

### ***Division on Amendment After Rejection of Motion***

#### **§ 25.3 Where a preferential motion that the Committee of the Whole rise is made and rejected subsequent to a demand for a division vote on an amendment, the division is taken after the rejection of the motion that the Committee rise.**

On June 13, 1947,<sup>(8)</sup> during consideration of H.R. 3342, relating to the cultural relations program of the State Department, Chairman Thomas A. Jenkins, of Ohio, presiding, a preferential motion

that the Committee of the Whole rise was made subsequent to a demand for a division vote on an amendment. The division vote was taken after rejection of the motion to rise.

THE CHAIRMAN: . . . The question is on the amendment offered by the gentleman from Wisconsin [Mr. Keefe].

The question was taken; and Mr. Angell demanded a division.

MR. [DANIEL A.] REED of New York: Mr. Chairman I offer a preferential motion.

The Clerk read as follows:

Mr. Reed of New York moves that the Committee do now rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from New York.

The question was taken; and on a division (demanded by Mr. Rayburn) there were—ayes 93, noes, 95.

MR. REED of New York: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Mundt and Mr. Reed of New York.

The Committee again divided; and the tellers reported that there were—ayes 101, noes 110.

So the motion was rejected.

THE CHAIRMAN: The Chair will state that before the motion was made that the Committee do now rise the question was being taken on the amendment offered by the gentleman from Wisconsin [Mr. Keefe]. There was a voice vote and then a division was requested.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, a parliamentary inquiry.

8. 93 CONG. REC. 6998, 80th Cong. 1st Sess.

THE CHAIRMAN: The gentleman will state it.

MR. MCCORMACK: The Chair had stated that a standing vote had been requested, but I think the Chair failed to state that the Chair announced the "ayes" had it on the voice vote.

THE CHAIRMAN: No. No announcement was made on the division. The preferential motion intervened.

The question is on the amendment offered by the gentleman from Wisconsin [Mr. Keefe].

The question was taken; and on a division there were—ayes 145, noes 1.

### ***Resolving Back Into Committee After Reporting a Quorum***

#### **§ 25.4 Under the former practice, where the Committee of the Whole rose and the Chairman reported to the House that, pursuant to House rule,<sup>(9)</sup> he had caused**

9. Rule XXIII clause 2, *House Rules and Manual* §863 (1973).

*Note:* Clause 2 of Rule XXIII was amended in the 96th Congress (H. Res. 5, Jan. 15, 1979) to permit the Committee to continue its business following the appearance of a quorum so that the Speaker need not take the chair to receive the Committee's report of absentees. Prior to the adoption of this change in the rules, the Committee of the Whole followed the procedure indicated above. Under the new rule, the Committee would still rise if a quorum of the Committee failed to appear. Rule XXIII clause 2(a), *House Rules and*

**the roll to be called in the Committee to establish the presence of a quorum, the House automatically resolved back into the Committee.**

On Apr. 21, 1969,<sup>(10)</sup> the House automatically resolved into the Committee of the Whole where the Committee rose and the Chairman reported to the House that, pursuant to Rule XXIII clause 2, he caused the roll to be called in Committee, thereby establishing the presence of a quorum.

MR. [FRANK E.] EVANS of Colorado: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN:<sup>(11)</sup> The Chair will count.

Forty Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Price of Illinois, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 514, and finding itself without a quorum, he had directed the roll to be called, when 325

*Manual* §863 (1979). The subject of quorums is discussed more fully in Ch. 20, *infra*.

10. 115 CONG. REC. 9705, 91st Cong. 1st Sess.  
11. Charles M. Price (Ill.).

Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

### ***On Calendar Wednesday***

**§ 25.5 On Calendar Wednesday, if the Committee of the Whole during consideration of a bill votes to rise, and the House then rejects a motion to adjourn, Calendar Wednesday business is still before the House; and if the chairman of the committee having the call calls up the same bill, the House automatically resolves itself into the Committee of the Whole and continues consideration of that bill.**

On Feb. 22, 1950, Calendar Wednesday,<sup>(12)</sup> during consideration of H. R. 4453, the Federal Fair Employment Practice Act, Speaker Sam Rayburn, of Texas, presiding, the Committee of the Whole voted to rise; thereafter, the House rejected a motion to adjourn. The Speaker indicated that the chairman of the committee having the call could call up the same bill, and, if so, that the House would automatically resolve itself into the Committee of

the Whole to continue consideration thereof.

MR. [PAUL W.] SHAFER [of Michigan]: Mr. Chairman, I offer a preferential motion. I move that the Committee do now rise.

THE CHAIRMAN:<sup>(13)</sup> The question is on the motion offered by the gentleman from Michigan [Mr. Shafer].

MR. [ADAM C.] POWELL [Jr., of New York]: Mr. Chairman, a parliamentary inquiry. Has any business been transacted in connection with the bill?

THE CHAIRMAN: That is immaterial. The motion is in order at this time.

The question was taken; and on a division (demanded by Mr. Shafer) there were—ayes 142, noes 164.

MR. SHAFER: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. Shafer and Mr. Powell.

The Committee again divided, and tellers reported that there were—ayes 172, noes 165.

So the motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Walter, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4453) to prohibit discrimination in employment because of race, color, religion, or national origin, had come to no resolution thereon.

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I move that the House do now adjourn.

Mr. Marcantonio and Mr. Biemiller demanded the yeas and nays.

12. 96 CONG. REC. 2238–40, 81st Cong. 2d Sess.

13. Francis F. Walter (Pa.).

MR. [OREN] HARRIS [of Arkansas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. HARRIS: As I understand, the roll call now is on the motion to adjourn.

THE SPEAKER: That is correct.

MR. HARRIS: If the motion to adjourn is not agreed to, then what will be the parliamentary situation?

THE SPEAKER: It will be Calendar Wednesday business.

MR. HARRIS: A further parliamentary inquiry, Mr. Speaker.

THE SPEAKER: The gentleman will state it.

MR. HARRIS: Do we automatically then go back into Committee?

THE SPEAKER: If the gentleman from Michigan calls the bill up again, yes.

The yeas and nays were ordered.

The question was taken; and there were—yeas 165, nays 239, answered “present” 1, not voting 26, as follows: . . .

MR. [JOHN] LESINSKI [of Michigan]: Mr. Speaker, by direction of the Committee on Education and Labor I call up the bill H.R. 4453.

THE SPEAKER: The Clerk will report the title of the bill.

The Clerk read the title of the bill.

MR. SMITH of Virginia: Mr. Speaker, I raise the question of consideration of the bill.

THE SPEAKER: The question is, Will the House consider the bill?

MR. SMITH of Virginia: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 271, nays 133, not voting 27, as follows: . . .

The result of the vote was announced as above recorded.

THE SPEAKER: The House automatically resolves itself into the Committee of the Whole House on the State of the Union for the consideration of the bill.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4453) to prohibit discrimination in employment because of race, color, religion, or national origin, with Mr. Walter in the chair.

The Clerk read the title of the bill.

*Parliamentarian's Note:* On this Calendar Wednesday, because of numerous roll calls and motions, the House stayed in session until 3:19 a.m. Thursday morning, when the reading of the engrossed copy was demanded. The House then adjourned and met at noon Thursday to read the engrossed copy and pass the bill.

### ***Vacating Vote to Rise***

**§ 25.6 A Committee of the Whole may by unanimous consent vacate the proceedings by which it has voted to rise.**

On Feb. 5, 1936,<sup>(14)</sup> during consideration of H.R. 10919, the Departments of the Treasury and Post Office appropriations bill, Chairman Arthur H. Greenwood,

14. 80 CONG. REC. 1534, 74th Cong. 2d Sess.

of Indiana, stated that the Committee of the Whole could by unanimous consent vacate the proceedings by which it had voted to rise.

MR. [LOUIS] LUDLOW [of Indiana]: Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

MR. LUDLOW: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. LUDLOW: May I ask what is the status of the Committee now?

THE CHAIRMAN: We are waiting for the Speaker to arrive to report that the Committee has determined to rise.

MR. LUDLOW: Mr. Chairman, I ask unanimous consent that the proceedings by which the Committee determined to rise be vacated.

THE CHAIRMAN: Is there objection to the request of the gentleman from Indiana?

There was no objection.

MR. LUDLOW: Mr. Chairman, I yield 5 minutes to the gentleman from Iowa [Mr. Wearin].

## **§ 26. Resumption of Business After Committee Resumes Sitting**

### ***Continuation of Debate When Committee Resumes Business After Rising***

#### **§ 26.1 Where the period of time for debate has been fixed on**

**an amendment in the Committee of the Whole and the Committee rises before the time expires, debate continues when the Committee resumes its deliberations.**

On June 16, 1948,<sup>(15)</sup> the Committee of the Whole was considering H.R. 6401, the Selective Service Act of 1948, under Chairman Francis H. Case, of South Dakota. Time for debate had been fixed on an amendment by the Committee, but a motion to rise was offered before the time had expired.

MR. [WALTER G.] ANDREWS of New York: Mr. Chairman, in view of the fact that two or three Members who have time are not here, I move that the Committee do now rise. . . .

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. MARCANTONIO: Mr. Chairman, under the arrangement entered into limiting debate on this amendment, will the Members who were scheduled to be recognized be recognized when the Committee resumes its deliberations?

THE CHAIRMAN: They will be recognized, if the Committee should vote to rise, when the Committee meets again.

MR. ANDREWS of New York: Mr. Chairman, a parliamentary inquiry.

15. 94 CONG. REC. 8521, 80th Cong. 2d Sess.

THE CHAIRMAN: The gentleman will state it.

MR. ANDREWS of New York: My understanding is that all those gentlemen whose names are on the list will be recognized immediately tomorrow.

THE CHAIRMAN: The statement of the gentleman from New York is correct.

***Resumption of Consideration After House Refusal to Strike Enacting Clause***

**§ 26.2 When a recommendation of the Committee of the Whole that the enacting clause of a bill be stricken is rejected by the House, the House, without motion, resolves itself into the Committee of the Whole for further consideration of the bill.**

On May 18, 1960,<sup>(16)</sup> during consideration of H.R. 5, the Foreign Investment Incentive Tax Act of 1960, the House without motion resolved itself into the Committee of the Whole for further consider-

ation of the bill after rejecting a Committee recommendation to strike out the enacting clause.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Gross moves that the Committee now rise and report the bill to the House with the recommendation that the enacting clause be stricken out. . . .

THE CHAIRMAN:<sup>(17)</sup> . . . The question is on the preferential motion offered by the gentleman from Iowa [Mr. Gross].

The question was taken; and on a division (demanded by Mr. Gross) there were—ayes 101, noes 93.

MR. [HALE] BOGGS [of Louisiana]: Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Boggs and Mr. Gross.

The Committee again divided, and the tellers reported there were—ayes 107, noes 101.

So the motion was agreed to.

THE CHAIRMAN: The Committee will rise.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Natcher, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5) to amend the Internal Revenue Code of 1954 to encourage private investment abroad and thereby promote American industry and reduce Government expenditures for foreign economic assistance, had di-

16. 106 CONG. REC. 10577-79, 86th Cong. 2d Sess. See also, for example, 113 CONG. REC. 8611, 90th Cong. 1st Sess., Apr. 6, 1967 (H.R. 2512, revision of copyright laws); 111 CONG. REC. 25418, 89th Cong. 1st Sess., Sept. 29, 1965 (H.R. 4644, providing home rule for the District of Columbia); and 108 CONG. REC. 22363, 87th Cong. 2d Sess., Oct. 4, 1962 (S. 1123, amending the Fair Labor Standards Act), for other illustrations of this principle.

17. William H. Natcher (Ky.).

rected him to report the bill back to the House with the recommendation that the enacting clause be stricken out.

THE SPEAKER:<sup>(18)</sup> The question is, Shall the enacting clause be stricken out?

MR. BOGGS: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken and there were—yeas 160, nays 232, not voting 40. . . .

So the enacting clause was not stricken out. . . .

The result of the vote was announced as above recorded.

The Committee resumed its sitting.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 5.

The Clerk read the title of the bill.

THE CHAIRMAN: When the Committee rose, there was pending the amendment offered by the gentleman from Louisiana [Mr. Boggs] to the Committee amendment in the nature of a substitute. The gentleman from Louisiana [Mr. Boggs] had consumed 5 minutes in support of the amendment.

### ***Resumption of Proceedings on Teller Vote***

#### **§ 26.3 Where a demand for tellers on a vote in the Committee of the Whole is displaced by a motion to rise before the demand for tellers is**

18. Sam Rayburn (Tex.).

**seconded, the question on ordering tellers is regarded as pending and is first disposed of when the Committee resumes its session.**

On Mar. 9, 1935,<sup>(19)</sup> a demand for tellers had been displaced by a motion to rise during consideration of H.R. 6021. Chairman Emanuel Celler, of New York, stated that the question on ordering tellers would be regarded as pending and disposed of first after resumption of business in the Committee of the Whole.

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Michigan [Mr. Wolcott], which the Clerk will again report.

The Clerk read the Wolcott amendment.

The question was taken; and the Chair being in doubt, the Committee divided, and there were—ayes 118, noes 89.

MR. [FRANKLIN W.] HANCOCK of North Carolina: Mr. Chairman. I demand tellers.

MR. [JOHN J.] O'CONNOR [of New York]: Mr. Chairman, I move that the Committee do now rise.

MR. [THOMAS L.] BLANTON [of Texas]: Mr. Chairman, if the Committee determines to rise, the request for tellers will be considered as pending?

THE CHAIRMAN: The gentleman is correct.

19. 79 CONG. REC. 3315, 3316, 74th Cong. 1st Sess.

**§ 26.4 Under the former practice, it was held that where a point of no quorum was made in the Committee of the Whole and the roll was called while a demand for a teller vote on an amendment was pending, the question of ordering tellers was put immediately after the Committee resumed its sitting.**

On May 10, 1946,<sup>(20)</sup> the Committee of the Whole was considering amendments to H.R. 6335, the Department of the Interior appropriation, 1947, Chairman Jere Cooper, of Tennessee, presiding. A point of no quorum was made and the roll was called while a demand for a teller vote on an amendment was pending. The question on ordering tellers was put immediately after the Committee obtained a quorum and resumed its sitting. The Chairman indicated that the demand for tellers was not precluded by a prior division vote agreeing to the amendment.

THE CHAIRMAN: The question is on the amendment to the amendment.

The question was taken; and on a division (demanded by Mr. Rooney) there were—ayes 41, noes 29.

MR. [JED] JOHNSON of Oklahoma:  
Mr. Chairman, I demand tellers.

20. 92 CONG. REC. 4840, 79th Cong. 2d Sess.

MR. [FRANK B.] KEEFE [of Wisconsin]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count. [After counting.] Eighty-seven Members are present, not a quorum.

The Clerk will call the roll.

The Clerk called the roll. . . .

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Cooper, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill H.R. 6335, and finding itself without a quorum, he had directed the roll to be called, when 313 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

THE SPEAKER: <sup>(1)</sup> The Committee will resume its sitting.

THE CHAIRMAN: The gentleman from Oklahoma [Mr. Johnson] demands tellers on the amendment offered by the gentleman from Idaho [Mr. Dworshak] to the amendment offered by the gentleman from Utah [Mr. Robertson].

MR. [WALTER K.] GRANGER [of Utah]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it

MR. GRANGER: As I understood the situation when the quorum was called, the Chair had already announced that the amendment offered by the gentleman from Idaho to the amendment had been agreed to; and the request comes too late.

THE CHAIRMAN: The Chair had announced that on a division the amend-

1. Sam Rayburn (Tex.).

ment to the amendment had been agreed to. Thereupon, the gentleman from Oklahoma [Mr. Johnson] demanded tellers. At that point a point of order was made that a quorum was not present.

The gentleman's demand for tellers is now pending.

*Parliamentarian's Note:* Clause 2 of Rule XXIII was amended in the 96th Congress (H. Res. 5, Jan. 15, 1979) to permit the Committee to continue its business following the appearance of a quorum so that the Speaker need not take the chair to receive the Committee's report of absentees. Prior to the adoption of this change in the rules, the Committee of the Whole followed the procedure indicated above. Under the new rule, the Committee would still rise if a quorum of the Committee failed to appear. Rule XXIII clause 2(a), *House Rules and Manual* §863 (1979). The subject of quorums is discussed more fully in Ch. 20, *infra*

**§ 26.5 Where the Committee of the Whole has ordered tellers on an amendment and then rises, the order for tellers is pending and can be vacated and the vote taken de novo only by unanimous consent when the Committee again resumes consideration of the matter.**

On July 2, 1947,<sup>(2)</sup> the Committee of the Whole resumed consideration from the previous day of amendments to H.R. 4002, the War Department civil functions appropriations bill, 1948. Chairman Earl C. Michener, of Michigan, stated that on the previous day the Committee of the Whole had ordered tellers on an amendment and then had risen. The Chairman ruled that the order for tellers could be vacated and the vote taken de novo only by unanimous consent.

THE CHAIRMAN: . . . When the Committee rose yesterday, the so-called Rankin amendment was pending. A voice vote had been taken. Tellers were demanded and ordered.

Without objection the Clerk will again read the so-called Rankin amendment.

There was no objection.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. RANKIN: Mr. Chairman, is it not in order to vacate or disregard the standing vote and take the standing or voice vote again?

THE CHAIRMAN: Tellers have already been ordered.

MR. RANKIN: I understand that, Mr. Chairman, but I believe that where a vote is not completed on one day it is

2. 93 CONG. REC. 8136, 80th Cong. 1st Sess.

taken again when the question again comes up for consideration.

THE CHAIRMAN: The gentleman's inquiry is: Can the order for tellers be vacated, and the Committee proceed de novo on the amendment? That can be done by unanimous consent.

MR. RANKIN: Mr. Chairman, I ask unanimous consent that that be done.

THE CHAIRMAN: The gentleman from Mississippi asks unanimous consent

that the proceedings on the vote on the Rankin amendment when the Committee was last in session be vacated and that the vote be taken de novo. Is there objection?

MR. [ALBERT J.] ENGEL of Michigan: I object, Mr. Chairman.

THE CHAIRMAN: The Clerk will again report the amendment.